

104TH CONGRESS  
1ST SESSION

# S. 504

To modify the requirements applicable to locatable minerals on public domain lands, consistent with the principles of self-initiation of mining claims, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 6, 1995

Mr. BUMPERS (for himself, Mr. LAUTENBERG, Mr. LEAHY, Mr. AKAKA, Mr. LEVIN, Mr. PRYOR, Mr. KOHL, Mr. FEINGOLD, and Mr. PELL) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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## A BILL

To modify the requirements applicable to locatable minerals on public domain lands, consistent with the principles of self-initiation of mining claims, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

### 3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be referred to as  
5 the “Mineral Exploration and Development Act of 1995”.

6 (b) TABLE OF CONTENTS.—

#### TITLE I—MINERAL EXPLORATION AND DEVELOPMENT

Sec. 101. Definitions, references, and coverage.

- Sec. 102. Lands open to location; rights under this Act.
- Sec. 103. Location of mining claims.
- Sec. 104. Claim maintenance requirements.
- Sec. 105. Penalties.
- Sec. 106. Preemption.
- Sec. 107. Limitation on patent issuance.
- Sec. 108. Multiple mineral development and surface resources.
- Sec. 109. Mineral materials.

## TITLE II—ENVIRONMENTAL CONSIDERATIONS OF MINERAL EXPLORATION AND DEVELOPMENT

- Sec. 201. Surface management.
- Sec. 202. Inspection and enforcement.
- Sec. 203. State law and regulation.
- Sec. 204. Unsuitability review.
- Sec. 205. Lands not open to location.

## TITLE III—ABANDONED MINERALS MINE RECLAMATION FUND

- Sec. 301. Abandoned Minerals Mine Reclamation Fund.
- Sec. 302. Use and objectives of the fund.
- Sec. 303. Eligible areas.
- Sec. 304. Fund allocation and expenditures.
- Sec. 305. State reclamation programs.
- Sec. 306. Authorization of appropriations.

## TITLE IV—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

- Sec. 401. Policy functions.
- Sec. 402. User fees.
- Sec. 403. Regulations; effective dates.
- Sec. 404. Transitional rules; mining claims and mill sites.
- Sec. 405. Transitional rules; surface management requirements.
- Sec. 406. Basis for contest.
- Sec. 407. Savings clause claims.
- Sec. 408. Severability.
- Sec. 409. Purchasing power adjustment.
- Sec. 410. Royalty.
- Sec. 411. Savings clause.
- Sec. 412. Public records.

# 1     **TITLE I—MINERAL EXPLORATION AND** 2                                   **DEVELOPMENT**

## 3     **SEC. 101. DEFINITIONS, REFERENCES, AND COVERAGE.**

4         (a) DEFINITIONS.—As used in this Act:

5                 (1) The term “applicant” means any person ap-  
6                 plying for a plan of operations under this Act or a

1       modification to or a renewal of a plan of operations  
2       under this Act.

3           (2) The term “claim holder” means the holder  
4       of a mining claim located or converted under this  
5       Act. Such term may include an agent of a claim  
6       holder.

7           (3) The term “land use plans” means those  
8       plans required under section 202 of the Federal  
9       Land Policy and Management Act of 1976 (43  
10      U.S.C. 1712) or the land management plans for Na-  
11      tional Forest System units required under section 6  
12      of the Forest and Rangeland Renewable Resources  
13      Planning Act of 1974 (16 U.S.C. 1604), whichever  
14      is applicable.

15          (4) The term “legal subdivisions” means an ali-  
16      quot quarter section of land as established by the of-  
17      ficial records of the public land survey system, or a  
18      single lot as established by the official records of the  
19      public land survey system if the pertinent section is  
20      irregular and contains fractional lots, as the case  
21      may be.

22          (5) The term “locatable mineral” means any  
23      mineral not subject to disposition under any of the  
24      following:

1 (A) the Mineral Leasing Act (30 U.S.C.  
2 181 and following);

3 (B) the Geothermal Steam Act of 1970  
4 (30 U.S.C. 100 and following);

5 (C) the Act of July 31, 1947, commonly  
6 known as the Materials Act of 1947 (30 U.S.C.  
7 601 and following); or

8 (D) the Mineral Leasing for Acquired  
9 Lands Act (30 U.S.C. 351 and following).

10 (6) The term “mineral activities” means any  
11 activity for, related to or incidental to mineral explo-  
12 ration, mining, beneficiation and processing activi-  
13 ties for any locatable mineral, including access.  
14 When used with respect to this term—

15 (A) the term “exploration” means those  
16 techniques employed to locate the presence of a  
17 locatable mineral deposit and to establish its  
18 nature, position, size, shape, grade, and value;

19 (B) the term “mining” means the proc-  
20 esses employed for the extraction of a locatable  
21 mineral from the earth;

22 (C) the term “beneficiation” means the  
23 crushing and grinding of locatable mineral ore  
24 and such processes which are employed to free  
25 the mineral from other constituents, including

1 but not necessarily limited to, physical and  
2 chemical separation techniques; and

3 (D) the term “processing” means proc-  
4 esses downstream of beneficiation employed to  
5 prepare locatable mineral ore into the final  
6 marketable product, including but not limited  
7 to, smelting and electrolytic refining.

8 (7) The term “mining claim” means a claim for  
9 the purposes of mineral activities.

10 (8) The term “National Conservation System  
11 unit” means any unit of the National Park System,  
12 National Wildlife Refuge System, National Wild and  
13 Scenic Rivers System, National Trails System, or a  
14 national conservation area, national recreation area,  
15 or a national forest monument.

16 (9) The term “operator” means any person,  
17 partnership, or corporation with a plan of operations  
18 approved under this Act.

19 (10) The term “Secretary” means, unless oth-  
20 erwise provided in this Act—

21 (A) the Secretary of the Interior for the  
22 purposes of title I and title III;

23 (B) the Secretary of the Interior with re-  
24 spect to land under the jurisdiction of such Sec-  
25 retary and all other lands subject to this Act

1 (except for lands under the jurisdiction of the  
2 Secretary of Agriculture) for the purposes of  
3 title II; and

4 (C) the Secretary of Agriculture with re-  
5 spect to lands under the jurisdiction of the Sec-  
6 retary of Agriculture for the purposes of title  
7 II.

8 (11) The term “substantial legal and financial  
9 commitments” means significant investments that  
10 have been made to develop mining claims under the  
11 general mining laws such as: long-term contracts for  
12 minerals produced; processing, beneficiation, or ex-  
13 traction facilities and transportation infrastructure;  
14 or other capital-intensive activities. Costs of acquir-  
15 ing the mining claim or claims, or the right to mine  
16 alone without other significant investments as de-  
17 tailed above, are not sufficient to constitute substan-  
18 tial legal and financial commitments.

19 (12) The term “surface management require-  
20 ments” means the requirements and standards of  
21 section 201, section 203, and section 204 of this  
22 Act, and such other standards as are established by  
23 the Secretary governing mineral activities and rec-  
24 lamation.

1 (b) REFERENCES.—(1) Any reference in this Act to  
2 the term “general mining laws” is a reference to those  
3 Acts which generally comprise chapters 2, 12A, and 16,  
4 and sections 161 and 162 of title 30, United States Code.

5 (2) Any reference in this Act to the “Act of July 23,  
6 1955”, is a reference to the Act of July 23, 1955, entitled  
7 “An Act to amend the Act of July 31, 1947 (61 Stat.  
8 681), and the mining laws to provide for multiple use of  
9 the surface of the same tracts of the public lands, and  
10 for other purposes.” (30 U.S.C. 601 and following).

11 (c) COVERAGE.—This Act shall apply only to mineral  
12 activities and reclamation on lands and interests in land  
13 which are open to location as provided in this Act.

14 **SEC. 102. LANDS OPEN TO LOCATION; RIGHTS UNDER THIS**  
15 **ACT.**

16 (a) OPEN LANDS.—Mining claims may be located  
17 under this Act on lands and interests in lands owned by  
18 the United States to the extent that—

19 (1) such lands and interests were open to the  
20 location of mining claims under the general mining  
21 laws on the date of enactment of this Act;

22 (2) such lands and interests are opened to the  
23 location of mining claims by reason of section 204(f)  
24 or section 205 of this Act; and

1           (3) such lands and interests are opened to the  
2           location of mining claims after the date of enact-  
3           ment of this Act by reason of any administrative ac-  
4           tion or statute.

5           (b) RIGHTS.—The holder of a mining claim located  
6           or converted under this Act and maintained in compliance  
7           with this Act shall have the exclusive right of possession  
8           and use of the claimed land for mineral activities, includ-  
9           ing the right of ingress and egress to such claimed lands  
10          for such activities, subject to the rights of the United  
11          States under section 108 and title II.

12       **SEC. 103. LOCATION OF MINING CLAIMS.**

13          (a) GENERAL RULE.—A person may locate a mining  
14          claim covering lands open to the location of mining claims  
15          by posting a notice of location, containing the person's  
16          name and address, the time of location (which shall be  
17          the date and hour of location and posting), and a legal  
18          description of the claim. The notice of location shall be  
19          posted on a conspicuous, durable monument erected as  
20          near as practicable to the northeast corner of the mining  
21          claim. No person who is not a citizen, or a corporation  
22          organized under the laws of the United States or of any  
23          State or the District of Columbia, may locate or hold a  
24          claim under this Act.



1       (b) USE OF PUBLIC LAND SURVEY.—Except as pro-  
2       vided in subsection (c), each mining claim located under  
3       this Act shall—

4               (1) be located in accordance with the public  
5       land survey system, and

6               (2) conform to the legal subdivisions thereof.

7       Except as provided in subsection (c), the legal de-  
8       scription of the mining claim shall be based on the  
9       public land survey system and its legal subdivisions.

10       (c) EXCEPTIONS.—(1) If only a protracted survey ex-  
11       ists for the public lands concerned, each of the following  
12       shall apply in lieu of subsection (b):

13               (A) The legal description of the mining claim  
14       shall be based on the protracted survey and the min-  
15       ing claim shall be located as near as practicable in  
16       conformance with a protracted legal subdivision.

17               (B) The mining claim shall be monumented on  
18       the ground by the erection of a conspicuous durable  
19       monument at each corner of the claim.

20               (C) The legal description of the mining claim  
21       shall include a reference to any existing survey  
22       monument, or where no such monument can be  
23       found within a reasonable distance, to a permanent  
24       natural object.

1       (2) If no survey exists for the public lands concerned,  
2 each of the following shall apply in lieu of subsection (b):

3           (A) The mining claim shall be a regular square,  
4 with each side laid out in cardinal directions, forty  
5 acres in size.

6           (B) The claim shall be monumented on the  
7 ground by the erection of a conspicuous durable  
8 monument at each corner of the claim.

9           (C) The legal description of the mining claim  
10 shall be expressed in metes and bounds and shall in-  
11 clude a reference to any existing survey monument,  
12 or where no such monument can be found within a  
13 reasonable distance, to a permanent natural object.  
14 Such description shall be of sufficient accuracy and  
15 completeness to permit recording of the claim upon  
16 the public land records and to permit the Secretary  
17 and other parties to find the claim upon the ground.

18       (3) In the case of a conflict between the boundaries  
19 of a mining claim as monumented on the ground and the  
20 description of such claim in the notice of location referred  
21 to in subsection (a), the notice of location shall be deter-  
22 minative.

23       (d) FILING WITH SECRETARY.—(1) Within thirty  
24 days after the location of a mining claim pursuant to this  
25 section, a copy of the notice of location referred to in sub-

1 section (a) shall be filed with the Secretary in an office  
2 designated by the Secretary.

3 (2) Whenever the Secretary receives a copy of a no-  
4 tice of location of a mining claim under this Act, the Sec-  
5 retary shall assign a serial number to the mining claim,  
6 and immediately return a copy of the notice of location  
7 to the locator of the claim, together with a certificate set-  
8 ting forth the serial number, a description of the claim,  
9 and the claim maintenance requirements of section 104.  
10 The Secretary shall enter the claim on the public land  
11 records.

12 (e) LANDS COVERED BY CLAIM.—A mining claim lo-  
13 cated under this Act shall include all lands and interests  
14 in lands open to location within the boundaries of the  
15 claim, subject to any prior mining claim referenced under  
16 subsections (c) and (d) of section 404.

17 (f) DATE OF LOCATION.—A mining claim located  
18 under this Act shall be effective based upon the time of  
19 location.

20 (g) CONFLICTING LOCATIONS.—Any conflicts be-  
21 tween the holders of mining claims located or converted  
22 under this Act relating to relative superiority under the  
23 provisions of this Act may be resolved in adjudication pro-  
24 ceedings before the Secretary. Such adjudication shall be  
25 determined on the record after opportunity for hearing.

1 It shall be incumbent upon the holder of a mining claim  
2 asserting superior rights in such proceedings to dem-  
3 onstrate to the Secretary that such person was the senior  
4 locator, or if such person is the junior locator, that prior  
5 to the location of the claim by such locator—

6 (1) the senior locator failed to file a copy of the  
7 notice of location within the time provided under  
8 subsection (d); or

9 (2) the amount of rental paid by the senior lo-  
10 cator was less than the amount required to be paid  
11 by such locator pursuant to section 104.

12 (h) EXTENT OF MINERAL DEPOSIT.—The bound-  
13 aries of a mining claim located under this Act shall extend  
14 vertically downward.

15 **SEC. 104. CLAIM MAINTENANCE REQUIREMENTS.**

16 (a) IN GENERAL.—(1) In order to maintain a mining  
17 claim under this Act a claim holder shall pay to the Sec-  
18 retary an annual rental fee. The rental fee shall be paid  
19 on the basis of all land within the boundaries of a mining  
20 claim at a rate established by the Secretary of not less  
21 than—

22 (A) \$5 per acre in each of the first through  
23 fifth years following location of the claim;

24 (B) \$10 per acre in each of the sixth through  
25 tenth years following location of the claim;

1 (C) \$15 per acre in each of the eleventh  
2 through fifteenth years following location of the  
3 claim;

4 (D) \$20 per acre in each of the sixteenth  
5 through twentieth years following location of the  
6 claim; and

7 (E) \$25 per acre in the twenty-first diligence  
8 year following location of the claim, and each year  
9 thereafter.

10 (2) The rental fee shall be due and payable at a time  
11 and in a manner as prescribed by the Secretary.

12 (b) FAILURE TO COMPLY.—(1) If a claim holder fails  
13 to pay the rental fee as required by this section, the Sec-  
14 retary shall immediately provide notice thereof to the  
15 claim holder and after thirty days from the date of such  
16 notice the claim shall be deemed forfeited and such claim  
17 shall be null and void by operation of the law, except as  
18 provided under paragraphs (2) and (3). Such notice shall  
19 be sent to the claim holder by registered or certified mail  
20 to the address provided by such claim holder in the notice  
21 of location referred to in section 103(a) or in the most  
22 recent instrument filed by the claim holder pursuant to  
23 this section. In the event such notice is returned as unde-  
24 livered, the Secretary shall be deemed to have fulfilled the  
25 notice requirements of this paragraph.

1       (2) No claim may be deemed forfeited and null and  
2 void due to a failure to comply with the requirements of  
3 this section if the claim holder corrects such failure to the  
4 satisfaction of the Secretary within ten days after the date  
5 such claim holder was required to pay the rental fee.

6       (3) No claim may be deemed forfeited and null and  
7 void due to a failure to comply with the requirements of  
8 this section if, within ten days after date of the notice re-  
9 ferred to in paragraph (1), the claim holder corrects such  
10 failure to the satisfaction of the Secretary, and if the Sec-  
11 retary determines that such failure was justifiable.

12       (c) PROHIBITION.—The claim holder shall be prohib-  
13 ited from locating a new claim on the lands included in  
14 a forfeited claim for one year from the date such claim  
15 is deemed forfeited and null and void, except as provided  
16 in subsection (d).

17       (d) RELINQUISHMENT.—A claim holder deciding not  
18 to pursue mineral activity on a claim may relinquish such  
19 claim by notifying the Secretary. A claim holder relin-  
20 quishing a claim is responsible for reclamation as required  
21 by section 201 of this Act and all other applicable require-  
22 ments. A claim holder who relinquishes a claim shall not  
23 be subject to the prohibition of subsection (c) of this sec-  
24 tion; however, if the Secretary determines that a claim is  
25 being relinquished and relocated for the purpose of avoid-

1 ing compliance with any provision of this Act, including  
2 payment of the applicable annual rental fee, the claim  
3 holder shall be subject to the prohibition in subsection (c)  
4 of this section.

5 (e) SUSPENSION.—Payment of the annual rental fee  
6 required by this section shall be suspended upon the pay-  
7 ment of the royalty required by section 410 of this Act  
8 in an amount equal to or greater than the applicable an-  
9 nual rental fee. During any subsequent period of non-pro-  
10 duction, or period when the royalty required by section  
11 410 of this Act is an amount less than the applicable an-  
12 nual rental fee, the claimant shall pay to the Secretary  
13 a total amount equal to the applicable annual rental fee.

14 (f) FEE DISPOSITION.—The Secretary shall deposit  
15 all moneys received from rental fees collected under this  
16 subsection into the Fund referred to in title III.

17 **SEC. 105. PENALTIES.**

18 (a) VIOLATION.—Any claim holder who knowingly or  
19 willfully posts on a mining claim or files a notice of loca-  
20 tion with the Secretary under section 103 that contains  
21 false, inaccurate or misleading statements shall be liable  
22 for a penalty of not more than \$5,000 per violation. Each  
23 day of continuing violation may be deemed a separate vio-  
24 lation for purposes of penalty assessments.

1 (b) REVIEW.—No civil penalty under this section  
2 shall be assessed until the claim holder charged with the  
3 violation has been given the opportunity for a hearing on  
4 the record under section 202(f).

5 **SEC. 106. PREEMPTION.**

6 The requirements of this title shall preempt any con-  
7 flicting requirements of any State, or political subdivision  
8 thereof relating to the location and maintenance of mining  
9 claims as provided for by this Act. The filing requirements  
10 of section 314 of the Federal Land Policy and Manage-  
11 ment Act (43 U.S.C. 1744) shall not apply with respect  
12 to any mining claim located or converted under this Act.

13 **SEC. 107. LIMITATION ON PATENT ISSUANCE.**

14 (a) MINING CLAIMS.—After January 4, 1995, no pat-  
15 ent shall be issued by the United States for any mining  
16 claim located under the general mining laws unless the  
17 Secretary of the Interior determines that, for the claim  
18 concerned—

19 (1) a patent application was filed with the Sec-  
20 retary on or before October 1, 1994; and

21 (2) all requirements established under sections  
22 2325 and 2326 of the Revised Statutes (30 U.S.C.  
23 29 and 30) for vein or lode claims and sections  
24 2329, 2330, 2331, and 2333 of the Revised Statutes  
25 (30 U.S.C. 35, 36, and 37) for placer claims were



1 fully complied with by that date. If the Secretary  
2 makes the determinations referred to in paragraphs  
3 (1) and (2) for any mining claim, the holder of the  
4 claim shall be entitled to the issuance of a patent in  
5 the same manner and degree to which such claim  
6 holder would have been entitled to prior to the en-  
7 actment of this Act, unless and until such deter-  
8 minations are withdrawn or invalidated by the Sec-  
9 retary or by a court of the United States.

10 (b) MILL SITES.—After October 1, 1994, no patent  
11 shall be issued by the United States for any mill site claim  
12 located under the general mining laws unless the Secretary  
13 of the Interior determines that for the mill site con-  
14 cerned—

15 (1) a patent application for such land was filed  
16 with the Secretary on or before October 1, 1994;  
17 and

18 (2) all requirements applicable to such patent  
19 application were fully complied with by that date. If  
20 the Secretary makes the determinations referred to  
21 in paragraphs (1) and (2) for any mill site claim,  
22 the holder of the claim shall be entitled to the issu-  
23 ance of a patent in the same manner and degree to  
24 which such claim holder would have been entitled to  
25 prior to the enactment of this Act, unless and until

1       such determinations are withdrawn or invalidated by  
2       the Secretary or by a court of the United States.

3   **SEC. 108. MULTIPLE MINERAL DEVELOPMENT AND SUR-**  
4                   **FACE RESOURCES.**

5       (a) IN GENERAL.—The provisions of sections 4 and  
6   6 of the Act of August 13, 1954 (30 U.S.C. 524 and 526),  
7   commonly known as the Multiple Minerals Development  
8   Act, and the provisions of section 4 of the Act of July  
9   23, 1955 (30 U.S.C. 612) shall apply to all mining claims  
10   located or converted under this Act.

11       (b) ENFORCEMENT.—The Secretary of the Interior,  
12   or the Secretary of Agriculture, as the case may be, shall  
13   take such actions as may be necessary to ensure the com-  
14   pliance by claim holders with section 4 of the Act of July  
15   23, 1955 (30 U.S.C. 612).

16   **SEC. 109. MINERAL MATERIALS.**

17       (a) DETERMINATIONS.—Section 3 of the Act of July  
18   23, 1955 (30 U.S.C. 611), is amended as follows:

19               (1) Insert “(a)” before the first sentence.

20               (2) Strike “or cinders” and insert in lieu there-  
21   of “cinders, or clay”.

22               (3) Add the following new subsection at the end  
23   thereof:

24       “(b)(1) Subject to valid existing rights, after the date  
25   of enactment of the Mineral Exploration and Development

1 Act of 1995, all deposits of mineral materials referred to  
 2 in subsection (a), including the block pumice referred to  
 3 in such subsection, shall only be subject to disposal under  
 4 the terms and conditions of the Materials Act of 1947.

5 “(2) For purposes of paragraph (1), the term ‘valid  
 6 existing rights’ means that a mining claim located for any  
 7 such mineral material had some property giving it the dis-  
 8 tinct and special value referred to in subsection (a), or  
 9 as the case may be, met the definition of block pumice  
 10 referred to in such subsection, was properly located and  
 11 maintained under the general mining laws prior to the  
 12 date of enactment of the Mineral Exploration and Devel-  
 13 opment Act of 1995, and was supported by a discovery  
 14 of a valuable mineral deposit within the meaning of the  
 15 general mining laws on the date of enactment of the Min-  
 16 eral Exploration and Development Act of 1995 and that  
 17 such claim continues to be valid.”.

18 (b) MINERAL MATERIALS DISPOSAL CLARIFICA-  
 19 TION.—Section 4 of the Act of July 23, 1955 (30 U.S.C.  
 20 612), is amended as follows:

21 (1) In subsection (b) insert “and mineral mate-  
 22 rial” after “vegetative”.

23 (2) In subsection (c) insert “and mineral mate-  
 24 rial” after “vegetative”.

1 (c) CONFORMING AMENDMENT.—Section 1 of the  
2 Act of July 31, 1947, entitled “An Act to provide for the  
3 disposal of materials on the public lands of the United  
4 States” (30 U.S.C. 601 and following) is amended by  
5 striking “common varieties of” in the first sentence.

6 (d) SHORT TITLES.—

7 (1) SURFACE RESOURCES.—The Act of July  
8 23, 1955, is amended by inserting after section 7  
9 the following new section.

10 “SEC. 8. This Act may be cited as the ‘Surface Re-  
11 sources Act of 1955’.”.

12 (2) MINERAL MATERIALS.—The Act of July 31,  
13 1947, entitled “An Act to provide for the disposal of  
14 materials on the public lands of the United States”  
15 (30 U.S.C. 601 and following) is amended by insert-  
16 ing after section 4 the following new section:

17 “SEC. 5. This Act may be cited as the ‘Materials Act  
18 of 1947’.”.

19 (e) REPEAL.—(1) The Act of August 4, 1892 (27  
20 Stat. 348) commonly known as the Building Stone Act  
21 is hereby repealed.

22 (2) The Act of January 31, 1901 (30 U.S.C. 162)  
23 commonly known as the Saline Placer Act is hereby re-  
24 pealed.

1 **TITLE II—ENVIRONMENTAL CONSIDER-**  
2 **ATIONS OF MINERAL EXPLORATION**  
3 **AND DEVELOPMENT**

4 **SEC. 201. SURFACE MANAGEMENT.**

5 (a) IN GENERAL.—Notwithstanding the last sentence  
6 of section 302(b) of the Federal Land Policy and Manage-  
7 ment Act of 1976, and in accordance with this title and  
8 other applicable law, the Secretary shall require that min-  
9 eral activities and reclamation be conducted so as to mini-  
10 mize adverse impacts to the environment.

11 (b) PLANS OF OPERATION.—(1) Except as provided  
12 under paragraph (2), no person may engage in mineral  
13 activities that may cause a disturbance of surface re-  
14 sources unless such person has filed a plan of operations  
15 with, and received approval of such plan of operations,  
16 from the Secretary.

17 (2)(A) A plan of operations may not be required for  
18 mineral activities related to exploration that cause a neg-  
19 ligible disturbance of surface resources not involving the  
20 use of mechanized earth moving equipment, suction dredg-  
21 ing, explosives, the use of motor vehicles in areas closed  
22 to off-road vehicles, the construction of roads, drill pads,  
23 or the use of toxic or hazardous materials.

24 (B) A plan of operations may not be required for min-  
25 eral activities related to exploration that, after notice to

1 the Secretary, involve only a minimal and readily reclaim-  
2 able disturbance of surface resources related to and in-  
3 cluding initial test drilling not involving the construction  
4 of access roads, except activities under notice shall not  
5 commence until an adequate financial guarantee is estab-  
6 lished for such activities pursuant to subsection (1).

7 (c) CONTENTS OF PLANS.—Each proposed plan of  
8 operations shall include a mining permit application and  
9 a reclamation plan together with such documentation as  
10 necessary to ensure compliance with applicable Federal  
11 and State environmental laws and regulations.

12 (d) MINING PERMIT APPLICATION REQUIRE-  
13 MENTS.—The mining permit referred to in subsection (c)  
14 shall include such terms and conditions as prescribed by  
15 the Secretary, and each of the following:

- 16 (1) The name and mailing address of—  
17 (A) the applicant for the mining permit;  
18 (B) the operator if different than the ap-  
19 plicant;  
20 (C) each claim holder of the lands subject  
21 to the plan of operations if different than the  
22 applicant;  
23 (D) any subsidiary, affiliate, or person con-  
24 trolled by or under common control with the ap-

1           plicant, or the operator or each claim holder, if  
2           different than the applicant; and

3           (E) the owner or owners of any land, or in-  
4           terests in any such land, not subject to this Act,  
5           within or adjacent to the proposed mineral ac-  
6           tivities.

7           (2) A statement of any plans of operation held  
8           by the applicant, operator or each claim holder if  
9           different than the applicant, or any subsidiary, affili-  
10          ate, or person controlled by or under common con-  
11          trol with the applicant, operator or each claim holder  
12          if different than the applicant.

13          (3) A statement of whether the applicant, oper-  
14          ator or each claim holder if different than the appli-  
15          cant, and any subsidiary, affiliate, or person con-  
16          trolled by or under common control with the appli-  
17          cant, operator or each claim holder if different than  
18          the applicant has an outstanding violation of this  
19          Act, any surface management requirements, or ap-  
20          plicable air and water quality laws and regulations  
21          and if so, a brief explanation of the facts involved,  
22          including identification of the site and the nature of  
23          the violation.

24          (4) A description of the type and method of  
25          mineral activities proposed, the engineering tech-

1        niques proposed to be used and the equipment pro-  
2        posed to be used.

3            (5) The anticipated starting and termination  
4        dates of each phase of the mineral activities pro-  
5        posed.

6            (6) A map, to an appropriate scale, clearly  
7        showing the land to be affected by the proposed min-  
8        eral activities.

9            (7) A description of the quantity and quality of  
10       surface and ground water resources within and  
11       along the boundaries of, and adjacent to, the area  
12       subject to mineral activities based on twelve months  
13       of pre-disturbance monitoring.

14           (8) A description of the biological resources  
15       found in or adjacent to the area subject to mineral  
16       activities, including vegetation, fish and wildlife, ri-  
17       parian and wetland habitats.

18           (9) A description of the monitoring systems to  
19       be used to detect and determine whether compliance  
20       has and is occurring consistent with the surface  
21       management requirements and to regulate the ef-  
22       fects of mineral activities and reclamation on the  
23       site and surrounding environment, including but not  
24       limited to, groundwater, surface water, air and soils.



1           (10) Accident contingency plans that include,  
2           but are not limited to, immediate response strate-  
3           gies, corrective measures to mitigate impacts to fish  
4           and wildlife, ground and surface waters, notification  
5           procedures and waste handling and toxic material  
6           neutralization.

7           (11) Any measures to comply with any condi-  
8           tions on minerals activities and reclamation that  
9           may be required in the applicable land use plan, in-  
10          cluding any condition stipulated pursuant to section  
11          204(d)(1)(B).

12          (12) A description of measures planned to ex-  
13          clude fish and wildlife resources from the area sub-  
14          ject to mineral activities by covering, containment,  
15          or fencing of open waters, beneficiation, and process-  
16          ing materials; or maintenance of all facilities in a  
17          condition that is not harmful to fish and wildlife.

18          (13) Such environmental baseline data as the  
19          Secretary, by rule, shall require sufficient to validate  
20          the determinations required for plan approval under  
21          this Act.

22          (e) RECLAMATION PLAN APPLICATION REQUIRE-  
23          MENTS.—The reclamation plan referred to in subsection  
24          (c) shall include such terms and conditions as prescribed  
25          by the Secretary, and each of the following:

1           (1) A description of the condition of the land  
2           subject to the mining permit prior to the commence-  
3           ment of any mineral activities.

4           (2) A description of reclamation measures pro-  
5           posed pursuant to the requirements of subsections  
6           (m) and (n).

7           (3) The engineering techniques to be used in  
8           reclamation and the equipment proposed to be used.

9           (4) The anticipated starting and termination  
10          dates of each phase of the reclamation proposed.

11          (5) A description of the proposed condition of  
12          the land following the completion of reclamation.

13          (6) A description of the maintenance measures  
14          that will be necessary to meet the surface manage-  
15          ment requirements of this Act, such as, but not lim-  
16          ited to, drainage water treatment facilities, or liner  
17          maintenance and control.

18          (7) The consideration which has been given to  
19          making the condition of the land after the comple-  
20          tion of mineral activities and final reclamation con-  
21          sistent with the applicable land use plan.

22          (f) PUBLIC PARTICIPATION.—(1) Concurrent with  
23          submittal of a plan of operations, or a renewal application  
24          for a plan of operations, the applicant shall publish a no-  
25          tice in a newspaper of local circulation for four consecutive

1 weeks that shall include: the name of the applicant, the  
2 location of the proposed mineral activities, the type and  
3 expected duration of the proposed mineral activities, and  
4 the intended use of the land after the completion of min-  
5 eral activities and reclamation. The Secretary shall also  
6 notify in writing other Federal, State and local govern-  
7 ment agencies that regulate mineral activities or land  
8 planning decisions in the area subject to mineral activities.

9       (2) Copies of the complete proposed plan of oper-  
10 ations shall be made available for public review for thirty  
11 days at the office of the responsible Federal surface man-  
12 agement agency located nearest to the location of the pro-  
13 posed mineral activities, and at the county courthouse of  
14 the county in which the mineral activities are proposed  
15 to be located, prior to final decision by the Secretary. Dur-  
16 ing this period, any person and the authorized representa-  
17 tive of a Federal, State or local governmental agency shall  
18 have the right to file written comments relating to the ap-  
19 proval or disapproval of the plan of operations. The Sec-  
20 retary shall immediately make such comments available to  
21 the applicant.

22       (3) Any person that is or may be adversely affected  
23 by the proposed mineral activities may request, after filing  
24 written comments pursuant to paragraph (2), a public  
25 hearing to be held in the county in which the mineral ac-

1   tivities are proposed. If a hearing is requested, the Sec-  
2   retary shall conduct a hearing. When a hearing is to be  
3   held, notice of such hearing shall be published in a news-  
4   paper of local circulation for two weeks prior to the hear-  
5   ing date.

6       (g) PLAN APPROVAL.—(1) After providing notice and  
7   opportunity for public comment and hearing, the Sec-  
8   retary may approve, require modifications to, or deny a  
9   proposed plan of operations, except as provided in section  
10  405. To approve a plan of operations, the Secretary shall  
11  make each of the following determinations:

12           (A) The mining permit application and reclama-  
13   tion plan are complete and accurate.

14           (B) The applicant has demonstrated that rec-  
15   lamation as required by this Act can be accom-  
16   plished under the reclamation plan and would have  
17   a high probability of success based on an analysis of  
18   such reclamation measures in areas of similar geo-  
19   chemistry, topography and hydrology.

20           (C) The proposed mineral activities, reclama-  
21   tion and condition of the land after the completion  
22   of mineral activities and final reclamation would be  
23   consistent with the land use plan applicable to the  
24   area subject to mineral activities.

1           (D) The area subject to the proposed plan of  
2           operations is not included within an area designated  
3           unsuitable under section 204 for the types of min-  
4           eral activities proposed.

5           (E) The applicant has demonstrated that the  
6           plan of operations will be in compliance with the re-  
7           quirements of all other applicable Federal require-  
8           ments, and any State requirements agreed to by the  
9           Secretary pursuant to subsection 203(c).

10          (2) Final approval of a plan of operations under this  
11          subsection shall be conditioned upon compliance with sub-  
12          section (1) and, based on information supplied by the ap-  
13          plicant, a determination of the probable hydrologic con-  
14          sequences of the proposed mineral activities and reclama-  
15          tion.

16          (3)(A) A plan of operations under this section shall  
17          not be approved if the applicant, operator, or any claim  
18          holder if different than the applicant, or any subsidiary,  
19          affiliate, or person controlled by or under common control  
20          with the applicant, operator or each claim holder if dif-  
21          ferent than the applicant, is currently in violation of this  
22          Act, any surface management requirement or of any appli-  
23          cable air and water quality laws and regulations at any  
24          site where mineral activities have occurred or are occur-  
25          ring.

1       (B) The Secretary shall suspend an approved plan  
2 of operations if the Secretary determines that any of the  
3 entities described in section 201(d)(1) were in violation of  
4 the surface management requirements at the time the plan  
5 of operations was approved.

6       (C) A plan of operations referred to in this subsection  
7 shall not be approved or reinstated, as the case may be,  
8 until the applicant submits proof that the violation has  
9 been corrected or is in the process of being corrected to  
10 the satisfaction of the Secretary; except that no proposed  
11 plan of operations, after opportunity for a hearing, shall  
12 be approved for any applicant, operator or each claim  
13 holder if different than the applicant with a demonstrated  
14 pattern of willful violations of the surface management re-  
15 quirements of such nature and duration and with such re-  
16 sulting irreparable damage to the environment as to clear-  
17 ly indicate an intent not to comply with the surface man-  
18 agement requirements.

19       (h) TERM OF PERMIT; RENEWAL.—(1) The approval  
20 of a plan of operations shall be for a stated term. The  
21 term shall be no greater than that necessary to accomplish  
22 the proposed operations, and in no case for more than ten  
23 years, unless the applicant demonstrates that a specified  
24 longer term is reasonably needed to obtain financing for  
25 equipment and the opening of the operation.

1       (2) Failure by the operator to commence mineral ac-  
2       tivities within one year of the date scheduled in an ap-  
3       proved plan of operations shall be deemed to require a  
4       modification of the plan.

5       (3) A plan of operations shall carry with it the right  
6       of successive renewal upon expiration only with respect to  
7       operations on areas within the boundaries of the existing  
8       plan of operations, as approved. An application for re-  
9       newal of such plan of operations shall be approved unless  
10      the Secretary determines, in writing, any of the following:

11           (A) The terms and conditions of the existing  
12      plan of operations are not being met.

13           (B) Mineral activities and reclamation activities  
14      as approved under the plan of operations are not in  
15      compliance with the surface management require-  
16      ments of this Act.

17           (C) The operator has not demonstrated that the  
18      financial guarantee would continue to apply in full  
19      force and effect for the renewal term.

20           (D) Any additional revised or updated informa-  
21      tion required by the Secretary has not been pro-  
22      vided.

23           (E) The applicant has not demonstrated that  
24      the plan of operations will be in compliance with the  
25      requirements of all other applicable Federal require-

1       ments, and any State requirements agreed to by the  
2       Secretary pursuant to subsection 203(c).

3       (4) A renewal of a plan of operations shall be for a  
4       term not to exceed the period of the original plan as pro-  
5       vided in paragraph (1). Application for plan renewal shall  
6       be made at least one hundred and twenty days prior to  
7       the expiration of an approved plan.

8       (5) Any person that is, or may be, adversely affected  
9       by the proposed mineral activities may request a public  
10      hearing to be held in the county in which the mineral ac-  
11      tivities are proposed. If a hearing is requested, the Sec-  
12      retary shall conduct a hearing. When a hearing is held,  
13      notice of such hearing shall be published in a newspaper  
14      of local circulation for two weeks prior to the hearing date.

15      (i) PLAN MODIFICATION.—(1) Except as provided  
16      under section 405, during the term of a plan of operations  
17      the operator may submit an application to modify the  
18      plan. To approve a proposed modification to a plan of op-  
19      erations the Secretary shall make the determinations set  
20      forth under subsection (g)(1). The Secretary shall estab-  
21      lish guidelines regarding the extent to which requirements  
22      for plans of operations under this section shall apply to  
23      applications to modify a plan of operations based on  
24      whether such modifications are deemed significant or  
25      minor; except that—



1 (A) any significant modifications shall at a min-  
2 imum be subject to subsection (f), and

3 (B) any modification proposing to extend the  
4 area covered by the plan of operations (except for in-  
5 cidental boundary revisions) must be made by appli-  
6 cation for a new plan of operations.

7 (2) The Secretary may, upon a review of a plan of  
8 operations or renewal application, require reasonable  
9 modification to such plan upon a determination that the  
10 requirements of this Act cannot be met if the plan is fol-  
11 lowed as approved. Such determination shall be based on  
12 a written finding and subject to notice and hearing re-  
13 quirements established by the Secretary.

14 (j) TEMPORARY CESSATION OF OPERATIONS.—(1)  
15 Before temporarily ceasing mineral activities or reclama-  
16 tion for a period of one hundred and eighty days or more  
17 under an approved plan of operations or portions thereof,  
18 an operator shall first submit a complete application for  
19 temporary cessation of operations to the Secretary for ap-  
20 proval.

21 (2) The application for approval of temporary ces-  
22 sation of operations shall include such terms and condi-  
23 tions as prescribed by the Secretary, including but not lim-  
24 ited to the steps that shall be taken during the cessation  
25 of operations period to minimize impacts on the environ-

1 ment. After receipt of a complete application for tem-  
2 porary cessation of operations the Secretary shall conduct  
3 an inspection of the area for which temporary cessation  
4 of operations has been requested.

5 (3) To approve an application for temporary ces-  
6 sation of operations, the Secretary shall make each of the  
7 following determinations:

8 (A) The methods for securing surface facilities  
9 and restricting access to the permit area, or relevant  
10 portions thereof, shall effectively ensure against haz-  
11 ards to the health and safety of the public and fish  
12 and wildlife.

13 (B) Reclamation is contemporaneous with min-  
14 eral activities as required under the approved rec-  
15 lamation plan, except in those areas specifically des-  
16 ignated in the application for temporary cessation of  
17 operations for which a delay in meeting such stand-  
18 ards is necessary to facilitate the resumption of op-  
19 erations.

20 (C) The amount of financial assurance filed  
21 with the plan of operations is sufficient to assure  
22 completion of the reclamation plan in the event of  
23 forfeiture.

24 (D) Any outstanding notices of violation and  
25 cessation orders incurred in connection with the plan

1 of operations for which temporary cessation is being  
2 requested are either stayed pursuant to an adminis-  
3 trative or judicial appeal proceeding or are in the  
4 process of being abated to the satisfaction of the  
5 Secretary.

6 (k) REVIEW.—Any decision made by the Secretary  
7 under subsections (g), (h), (i), (j), or (l) shall be subject  
8 to review under section 202(f).

9 (l) BONDS.—(1) Before any plan of operations is ap-  
10 proved pursuant to this Act, or any mineral activities are  
11 conducted pursuant to subsection (b)(2), the operator  
12 shall file with the Secretary financial assurance payable  
13 to the United States and conditional upon faithful per-  
14 formance of all requirements of this Act. The financial as-  
15 surance shall be provided in the form of a surety bond,  
16 trust fund, cash, or equivalent. The amount of the finan-  
17 cial assurance shall be sufficient to assure the completion  
18 of reclamation satisfying the requirements of this Act if  
19 the work had to be performed by the Secretary in the  
20 event of forfeiture, and the calculation shall take into ac-  
21 count the maximum level of financial exposure which shall  
22 arise during the mineral activity including, but not limited  
23 to, provision for accident contingencies.

24 (2) The financial assurance shall be held for the du-  
25 ration of the mineral activities and for an additional period

1 to cover the operator's responsibility for revegetation  
2 under subsection (n)(6)(B).

3 (3) The amount of the financial assurance and the  
4 terms of the acceptance of the assurance shall be adjusted  
5 by the Secretary from time to time as the area requiring  
6 coverage is increased or decreased, or where the costs of  
7 reclamation or treatment change, but the financial assur-  
8 ance must otherwise be in compliance with this section.  
9 The Secretary shall specify periodic times, or set a sched-  
10 ule, for reevaluating or adjusting the amount of financial  
11 assurance.

12 (4) Upon request, and after notice and opportunity  
13 for public comment, the Secretary may release in whole  
14 or in part the financial assurance if the Secretary deter-  
15 mines each of the following:

16 (A) Reclamation covered by the financial assur-  
17 ance has been accomplished as required by this Act.

18 (B) The operator has declared that the terms  
19 and conditions of any other applicable Federal re-  
20 quirements, and State requirements pursuant to  
21 subsection 203(b), have been fulfilled.

22 (5) The release referred to in paragraph (4) shall be  
23 according to the following schedule:

24 (A) After the operator has completed the back-  
25 filling, regrading and drainage control of an area

1 subject to mineral activities and covered by the fi-  
2 nancial assurance, and has commenced revegetation  
3 on the regraded areas subject to mineral activities in  
4 accordance with the approved plan of operations, 50  
5 percent of the total financial assurance secured for  
6 the area subject to mineral activities may be re-  
7 leased.

8 (B) After the operator has completed success-  
9 fully all mineral activities and reclamation activities  
10 and all requirements of the plan of operations and  
11 the reclamation plan and all the requirements of this  
12 Act have in fact been fully met, the remaining por-  
13 tion of the financial assurance may be released.

14 (6) During the period following release of the finan-  
15 cial assurance as specified in paragraph (5)(A), until the  
16 remaining portion of the financial assurance is released  
17 as provided in paragraph (5)(B), the operator shall be re-  
18 quired to meet all applicable standards of this Act and  
19 the plan of operations and the reclamation plan.

20 (7) Where any discharge from the area subject to  
21 mineral activities requires treatment in order to meet the  
22 applicable effluent limitations, the treatment shall be mon-  
23 itored during the conduct of mineral activities and rec-  
24 lamation and shall be fully covered by financial assurance  
25 and no financial assurance or portion thereof for the plan

1 of operations shall be released until the operator has met  
2 all applicable effluent limitations and water quality stand-  
3 ards for one full year without treatment.

4 (8) Jurisdiction under this Act shall terminate upon  
5 release of the final bond. If the Secretary determines, after  
6 final bond release, that an environmental hazard resulting  
7 from the mineral activities exists, or the terms and condi-  
8 tions of the plan of operations or the surface management  
9 requirements of this Act were not fulfilled in fact at the  
10 time of release, the Secretary shall reassert jurisdiction  
11 and all applicable surface management and enforcement  
12 provisions shall apply for correction of the condition.

13 (m) RECLAMATION.—(1) Except as provided under  
14 paragraphs (5) and (7) of subsection (n), lands subject  
15 to mineral activities shall be restored to a condition capa-  
16 ble of supporting the uses to which such lands were capa-  
17 ble of supporting prior to surface disturbance, or other  
18 beneficial uses, provided such other uses are not inconsis-  
19 ent with applicable land use plans.

20 (2) All required reclamation shall proceed as contem-  
21 poraneously as practicable with the conduct of mineral ac-  
22 tivities and shall use the best technology currently avail-  
23 able.

24 (n) RECLAMATION STANDARDS.—The Secretary shall  
25 establish reclamation standards which shall include, but

1 not necessarily be limited to, provisions to require each  
2 of the following:

3           (1) SOILS.—(A) Topsoil removed from lands  
4       subject to mineral activities shall be segregated from  
5       other spoil material and protected for later use in  
6       reclamation. If such topsoil is not replaced on a  
7       backfill area within a timeframe short enough to  
8       avoid deterioration of the topsoil, vegetative cover, or  
9       other means shall be used so that the topsoil is pre-  
10      served from wind and water erosion, remains free of  
11      any contamination by acid or other toxic material,  
12      and is in a usable condition for sustaining vegetation  
13      when restored during reclamation.

14           (B) In the event the topsoil from lands subject  
15      to mineral activities is of insufficient quantity or of  
16      inferior quality for sustaining vegetation, and other  
17      suitable growth media removed from the lands sub-  
18      ject to the mineral activities are available that shall  
19      support vegetation, the best available growth me-  
20      dium shall be removed, segregated, and preserved in  
21      a like manner as under subparagraph (A) for sus-  
22      taining vegetation when restored during reclamation.

23           (C) Mineral activities shall be conducted to pre-  
24      vent any contamination or toxification of soils. If  
25      any contamination or toxification occurs in violation

1 of this subparagraph, the operator shall neutralize  
2 the toxic material, decontaminate the soil, and dis-  
3 pose of any toxic or acid materials in a manner  
4 which complies with this section and any other appli-  
5 cable Federal or State law.

6 (2) STABILIZATION.—All surface areas subject  
7 to mineral activities, including spoil material piles,  
8 waste material piles, ore piles, subgrade ore piles,  
9 and open or partially backfilled mine pits which  
10 meet the requirements of paragraph (5) shall be sta-  
11 bilized and protected during mineral activities and  
12 reclamation so as to effectively control erosion and  
13 minimize attendant air and water pollution.

14 (3) EROSION.—Facilities such as but not lim-  
15 ited to basins, ditches, streambank stabilization, di-  
16 versions or other measures, shall be designed, con-  
17 structed and maintained where necessary to control  
18 erosion and drainage of the area subject to mineral  
19 activities, including spoil material piles and waste  
20 material piles prior to the use of such material to  
21 comply with the requirements of paragraph (5) and  
22 for the purposes of paragraph (7), and including ore  
23 piles and subgrade ore piles.

24 (4) HYDROLOGIC BALANCE.—(A) Mineral ac-  
25 tivities shall be conducted to minimize disturbances



1 to the prevailing hydrologic balance of the area sub-  
2 ject to mineral activities and adjacent areas and to  
3 the quality and quantity of water in surface and  
4 ground water systems, including stream flow, in the  
5 area subject to mineral activities and adjacent areas,  
6 and in all cases the operator shall comply with appli-  
7 cable Federal or State effluent limitations and water  
8 quality standards.

9 (B) Mineral activities shall prevent the genera-  
10 tion of acid or toxic drainage during the mineral ac-  
11 tivities and reclamation, to the extent possible using  
12 the best available demonstrated control technology;  
13 and the operator shall prevent any contamination of  
14 surface and ground water with acid or other toxic  
15 mine drainage and shall prevent or remove water  
16 from contact with acid or toxic producing deposits.

17 (C) Reclamation shall, to the extent possible,  
18 also include restoration of the recharge capacity of  
19 the area subject to mineral activities to approximate  
20 premining condition.

21 (D) Where surface or underground water  
22 sources used for domestic or agricultural use have  
23 been diminished, contaminated or interrupted as a  
24 proximate result of mineral activities, such water re-  
25 source shall be restored or replaced.

1           (5) GRADING.—(A) Except as provided under  
2           this paragraph (7), the surface area disturbed by  
3           mineral activities shall be backfilled, graded and  
4           contoured to its natural topography.

5           (B) The requirement of subparagraph (A) shall  
6           not apply with respect to an open mine pit if the  
7           Secretary finds that such open pit or partially  
8           backfilled pit would not pose a threat to the public  
9           health or safety or have an adverse effect on the en-  
10          vironment in terms of surface or groundwater pollu-  
11          tion.

12          (C) In instances where complete backfilling of  
13          an open pit is not required, the pit shall be graded  
14          to blend with the surrounding topography as much  
15          as practicable and revegetated in accordance with  
16          paragraph (6).

17          (6) REVEGETATION.—(A) Except in such in-  
18          stances where the complete backfill of an open mine  
19          pit is not required under paragraph (5), the area  
20          subject to mineral activities, including any excess  
21          spoil material pile and excess waste pile, shall be  
22          revegetated in order to establish a diverse, effective  
23          and permanent vegetative cover of the same seasonal  
24          variety native to the area subject to mineral activi-  
25          ties, capable of self-regeneration and plant succes-

1 sion and at least equal in extent of cover to the nat-  
2 ural revegetation of the surrounding area.

3 (B) In order to insure compliance with subpara-  
4 graph (A), the period for determining successful  
5 revegetation shall be for a period of five full years  
6 after the last year of augmented seeding, fertilizing,  
7 irrigation or other work, except that such period  
8 shall be ten full years where the annual average pre-  
9 cipitation is 26 inches or less.

10 (7) EXCESS SPOIL AND WASTE.—(A) Spoil ma-  
11 terial and waste material in excess of that required  
12 to comply with paragraph (5) shall be transported  
13 and placed in approved areas, in a controlled man-  
14 ner in such a way so as to assure long-term mass  
15 stability and to prevent mass movement. In addition  
16 to the measures described under paragraph (3), in-  
17 ternal drainage systems shall be employed, as may  
18 be required, to control erosion and drainage. The de-  
19 sign of such excess spoil material piles and excess  
20 waste material piles shall be certified by a qualified  
21 professional engineer.

22 (B) Excess spoil material piles and excess waste  
23 material piles shall be graded and contoured to  
24 blend with the surrounding topography as much as

1 practicable and revegetated in accordance with para-  
2 graph (6).

3 (8) SEALING.—All drill holes, and openings on  
4 the surface associated with underground mineral ac-  
5 tivities, shall be sealed when no longer needed for  
6 the conduct of mineral activities to ensure protection  
7 of the public, fish and wildlife, and the environment.

8 (9) STRUCTURES.—All buildings, structures or  
9 equipment constructed, used or improved during  
10 mineral activities shall be removed, unless the Sec-  
11 retary determines that the buildings, structures or  
12 equipment shall be of beneficial use in accomplishing  
13 the postmining uses or for environmental monitor-  
14 ing.

15 (10) FISH AND WILDLIFE.—All fish and wildlife  
16 habitat in areas subject to mineral activities shall be  
17 restored in a manner commensurate with or superior  
18 to habitat conditions which existed prior to the min-  
19 eral activities, including such conditions as may be  
20 prescribed by the Director, Fish and Wildlife Serv-  
21 ice.

22 (o) ADDITIONAL STANDARDS.—The Secretary may,  
23 by regulation, establish additional standards to address  
24 the specific environmental impacts of selected methods of

1 mineral activities, such as, but not limited to, cyanide  
2 leach mining.

3 (p) DEFINITIONS.—As used in subsections (m) and  
4 (n):

5 (1) The term “best technology currently avail-  
6 able” means equipment, devices, systems, methods,  
7 or techniques which are currently available anywhere  
8 even if not in routine use in mineral activities. The  
9 term includes, but is not limited to, construction  
10 practices, siting requirements, vegetative selection  
11 and planting requirements, scheduling of activities  
12 and design of sedimentation ponds. Within the con-  
13 straints of the surface management requirements of  
14 this Act, the Secretary shall have the discretion to  
15 determine the best technology currently available on  
16 a case-by-case basis.

17 (2) The term “best available demonstrated con-  
18 trol technology” means equipment, devices, systems,  
19 methods, or techniques which have demonstrated en-  
20 gineering and economic feasibility and practicality in  
21 preventing disturbances to hydrologic balance during  
22 mineral activities and reclamation. Such techniques  
23 will have shown to be effective and practical methods  
24 of acid and other mine water pollution elimination or  
25 control, and other pollution affecting water quality.

1       The “best available demonstrated control tech-  
2       nology” will not generally be in routine use in min-  
3       eral activities. Within the constraints of the surface  
4       management requirements of this Act, the Secretary  
5       shall have the discretion to determine the best avail-  
6       able demonstrated control technology on a case-by-  
7       case basis.

8           (3) The term “spoil material” means the over-  
9       burden, or nonmineralized material of any nature,  
10      consolidated or unconsolidated, that overlies a de-  
11      posit of any locatable mineral that is removed in  
12      gaining access to, and extracting, any locatable min-  
13      eral, or any such material disturbed during the con-  
14      duct of mineral activities.

15          (4) The term “waste material” means the mate-  
16      rial resulting from mineral activities involving  
17      beneficiation, including but not limited to tailings,  
18      and such material resulting from mineral activities  
19      involving processing, to the extent such material is  
20      not subject to subtitle C of the Resource Conserva-  
21      tion and Recovery Act of 1976 or the Uranium Mill  
22      Tailings Radiation Control Act.

23          (5) The term “ore piles” means ore stockpiled  
24      for beneficiation prior to the completion of mineral  
25      activities and reclamation.

1           (6) The term “subgrade ore” means ore that is  
2           too low in grade to be of economic value at the time  
3           of extraction but which could reasonable be economi-  
4           cal in the foreseeable future.

5           (7) The term “excess spoil” means spoil mate-  
6           rial that may be excess of the amount necessary to  
7           comply with the requirements of subsection (m)(3).

8           (8) The term “excess waste” means waste ma-  
9           terial that may be excess of the amount necessary to  
10          comply with the requirements of subsection (m)(3).

11 **SEC. 202. INSPECTION AND ENFORCEMENT.**

12          (a) INSPECTIONS AND MONITORING.—(1) The Sec-  
13 retary shall make such inspections of mineral activities so  
14 as to ensure compliance with the surface management re-  
15 quirements. The Secretary shall establish a frequency of  
16 inspections for mineral activities conducted under an ap-  
17 proved plan of operations, but in no event shall such in-  
18 spection frequency be less than one complete inspection  
19 per calendar quarter or two complete inspections annually  
20 for a plan of operations for which the Secretary approves  
21 an application under section 201(j).

22          (2) (A) Any person who has reason to believe they  
23 are or may be adversely affected by mineral activities due  
24 to any violation of the surface management requirements  
25 may request an inspection. The Secretary shall determine

1 within ten days of receipt of the request whether the re-  
2 quest states a reason to believe that a violation exists, ex-  
3 cept in the event the person alleges and provides reason  
4 to believe that an imminent danger as provided by sub-  
5 section (b)(2) exists, the ten-day period shall be waived  
6 and the inspection conducted immediately. When an in-  
7 spection is conducted under this paragraph, the Secretary  
8 shall notify the person filing the complaint and such per-  
9 son shall be allowed to accompany the inspector during  
10 the inspection. The identity of the person supplying infor-  
11 mation to the Secretary relating to a possible violation or  
12 imminent danger or harm shall remain confidential with  
13 the Secretary if so requested by that person, unless that  
14 person elects to accompany an inspector on the inspection.

15 (B) The Secretary shall, by regulation, establish pro-  
16 cedures for the review of any decision by his authorized  
17 representative not to inspect or by a refusal by such rep-  
18 resentative to ensure remedial actions are taken with re-  
19 spect to any alleged violation. The Secretary shall furnish  
20 such persons requesting the review a written statement of  
21 the reasons for the Secretary's final disposition of the  
22 case.

23 (3)(A) The Secretary shall require all operators to de-  
24 velop and maintain a monitoring and evaluation system



1 which shall be capable of identifying compliance with all  
2 surface management requirements.

3 (B) Monitoring shall be conducted as close as tech-  
4 nically feasible to the mineral activity or reclamation in-  
5 volved, and in all cases the monitoring shall be conducted  
6 within the area affected by mineral activities and reclama-  
7 tion.

8 (C) The point of compliance shall be as close to the  
9 mineral activity involved as is technically feasible, but in  
10 any event shall be located to comply with applicable State  
11 and Federal standards. In no event shall the point of com-  
12 pliance be outside the area affected by mineral activities  
13 and reclamation.

14 (D) The operator shall file reports with the Secretary  
15 on a quarterly basis on the results of the monitoring and  
16 evaluation process except that if the monitoring and eval-  
17 uation show a violation of the surface management re-  
18 quirements, it shall be reported immediately to the Sec-  
19 retary.

20 (E) The Secretary shall determine what information  
21 must be reported by the operator pursuant to subpara-  
22 graph (B). A failure to report as required by the Secretary  
23 shall constitute a violation of this Act and subject the op-  
24 erator to enforcement action pursuant to this section.

1 (F) The Secretary shall evaluate the reports submit-  
2 ted pursuant to this paragraph, and based on those re-  
3 ports and any necessary inspection shall take enforcement  
4 action pursuant to this section.

5 (b) ENFORCEMENT.—(1) If the Secretary or author-  
6 ized representative determines, on the basis of an inspec-  
7 tion that an operator, or any person conducting mineral  
8 activities under section 201(b)(2), is in violation of any  
9 surface management requirement, the Secretary or au-  
10 thorized representative shall issue a notice of violation to  
11 the operator or person describing the violation and the cor-  
12 rective measures to be taken. The Secretary or authorized  
13 representative shall provide such operator or person with  
14 a reasonable period of time to abate the violation. If, upon  
15 the expiration of time provided for such abatement, the  
16 Secretary or authorized representative finds that the viola-  
17 tion has not been abated he shall immediately order a ces-  
18 sation of all mineral activities or the portion thereof rel-  
19 evant to the violation.

20 (2) If the Secretary or authorized representative de-  
21 termines, on the basis of an inspection, that any condition  
22 or practice exists, or that an operator, or any person con-  
23 ducting mineral activities under section 201(b)(2), is in  
24 violation of the surface management requirements, and

1 such condition, practice or violation is causing, or can rea-  
2 sonably be expected to cause—

3 (A) an imminent danger to the health or safety  
4 of the public; or

5 (B) significant, imminent environmental harm  
6 to land, air or water resources;

7 the Secretary or authorized representative shall imme-  
8 diately order a cessation of mineral activities or the por-  
9 tion thereof relevant to the condition, practice or violation.

10 (3)(A) A cessation order by the Secretary or author-  
11 ized representative pursuant to paragraphs (1) or (2) shall  
12 remain in effect until the Secretary or authorized rep-  
13 resentative determines that the condition, practice or vio-  
14 lation has been abated, or until modified, vacated or termi-  
15 nated by the Secretary or authorized representative. In  
16 any such order, the Secretary or authorized representative  
17 shall determine the steps necessary to abate the violation  
18 in the most expeditious manner possible, and shall include  
19 the necessary measures in the order. The Secretary shall  
20 require appropriate financial assurances to insure that the  
21 abatement obligations are met.

22 (B) Any notice or order issued pursuant to para-  
23 graphs (1) or (2) may be modified, vacated or terminated  
24 by the Secretary or authorized representative. An opera-  
25 tor, or person conducting mineral activities under section

1 201(b)(2), issued any such notice or order shall be entitled  
2 to a hearing on the record pursuant to subsection (f).

3 (4) If, after thirty days of the date of the order re-  
4 ferred to in paragraph (3)(A), the required abatement has  
5 not occurred the Secretary shall take such alternative en-  
6 forcement action against the responsible parties as will  
7 most likely bring about abatement in the most expeditious  
8 manner possible. Such alternative enforcement action shall  
9 include, but is not necessarily limited to, seeking appro-  
10 priate injunctive relief to bring about abatement.

11 (5) In the event an operator, or person conducting  
12 mineral activities under section 201(b)(2), is unable to  
13 abate a violation or defaults on the terms of the plan of  
14 operation the Secretary shall forfeit the financial assur-  
15 ance for the plan of operations if necessary to ensure  
16 abatement and reclamation under this Act.

17 (6) The Secretary shall not forfeit the financial assur-  
18 ance while a review is pending pursuant to subsections (f)  
19 and (g).

20 (c) COMPLIANCE.—(1) The Secretary may request  
21 the Attorney General to institute a civil action for relief,  
22 including a permanent or temporary injunction or re-  
23 straining order, in the district court of the United States  
24 for the district in which the mineral activities are located

1 whenever an operator, or person conducting mineral activi-  
2 ties under section 201(b)(2)—

3 (A) violates, fails or refuses to comply with any  
4 order issued by the Secretary under subsection (b);  
5 or

6 (B) interferes with, hinders or delays the Sec-  
7 retary in carrying out an inspection under sub-  
8 section (a). Such court shall have jurisdiction to pro-  
9 vide such relief as may be appropriate. Any relief  
10 granted by the court to enforce an order under  
11 clause (A) shall continue in effect until the comple-  
12 tion or final termination of all proceedings for review  
13 of such order under subsections (f) and (g), unless  
14 the district court granting such relief sets it aside or  
15 modifies it.

16 (2) Notwithstanding any other provision of law, the  
17 Secretary shall utilize enforcement personnel from the Of-  
18 fice of Surface Mining Reclamation and Enforcement to  
19 augment personnel of the Bureau of Land Management  
20 and the Forest Service to ensure compliance with the sur-  
21 face management requirements, and inspection require-  
22 ments of subsection (a). The Bureau of Land Management  
23 and the Forest Service shall each enter into a memoran-  
24 dum of understanding with the Office of Surface Mining  
25 Reclamation and Enforcement for this purpose.

1       (d) PENALTIES.—(1) Any operator, or person con-  
2 ducting mineral activities under section 201(b)(2), who  
3 fails to comply with the surface management requirements  
4 shall be liable for a penalty of not more than \$5,000 per  
5 violation. Each day of continuing violation may be deemed  
6 a separate violation for purposes of penalty assessments.  
7 No civil penalty under this subsection shall be assessed  
8 until the operator charged with the violation has been  
9 given the opportunity for a hearing under subsection (f).

10       (2) An operator, or person conducting mineral activi-  
11 ties under section 201(b)(2), who fails to correct a viola-  
12 tion for which a cessation order has been issued under  
13 subsection (b) within the period permitted for its correc-  
14 tion shall be assessed a civil penalty of not less than  
15 \$1,000 per violation for each day during which such fail-  
16 ure continues, but in no event shall such assessment ex-  
17 ceed a thirty-day period.

18       (3) Whenever a corporation is in violation of the sur-  
19 face management requirements or fails or refuses to com-  
20 ply with an order issued under subsection (b), any direc-  
21 tor, officer or agent of such corporation who knowingly  
22 authorized, ordered, or carried out such violation, failure  
23 or refusal shall be subject to the same penalties that may  
24 be imposed upon an operator under paragraph (1).

1 (e) CITIZEN SUITS.—(1) Except as provided under  
2 paragraph (2), any person having an interest which is or  
3 may be adversely affected may commence a civil action  
4 on his or her own behalf to compel compliance—

5 (A) against the Secretary where there is alleged  
6 a violation of any of the provisions of this Act or any  
7 regulation promulgated pursuant to this Act or  
8 terms and conditions of any plan of operations ap-  
9 proved pursuant to this Act;

10 (B) against any other person alleged to be in  
11 violation of any of the provisions of this Act or any  
12 regulation promulgated pursuant to this Act or  
13 terms and conditions of any plan of operations ap-  
14 proved pursuant to this Act;

15 (C) against the Secretary where there is alleged  
16 a failure of the Secretary to perform any act or duty  
17 under this Act or any regulation promulgated pursu-  
18 ant to this Act which is not within the discretion of  
19 the Secretary; or

20 (D) against the Secretary where it is alleged  
21 that the Secretary acts arbitrarily or capriciously or  
22 in a manner inconsistent with this Act or any regu-  
23 lation promulgated pursuant to this Act. The United  
24 States district courts shall have jurisdiction, without

1 regard to the amount in controversy or the citizen-  
2 ship of the parties.

3 (2) No action may be commenced except as follows:

4 (A) Under paragraph (1)(A) prior to sixty days  
5 after the plaintiff has given notice in writing of such  
6 alleged violation to the Secretary, or to the person  
7 alleged to be in violation; except no action may be  
8 commenced against any person alleged to be in viola-  
9 tion if the Secretary has commenced and is dili-  
10 gently prosecuting a civil action in a court of the  
11 United States to require compliance with the provi-  
12 sions of this title (but in any such action in a court  
13 of the United States the person making the allega-  
14 tion may intervene as a matter of right.)

15 (B) Under paragraph (1)(B) prior to sixty days  
16 after the plaintiff has given notice in writing of such  
17 action to the Secretary, in such manner as the Sec-  
18 retary shall by regulation prescribe, except that such  
19 action may be brought immediately after such notifi-  
20 cation in the case where the violation or order com-  
21 plained of constitutes an imminent threat to the en-  
22 vironment or to the health or safety of the public or  
23 would immediately affect a legal interest of the  
24 plaintiff.



1       (3) Venue of all actions brought under this subsection  
2 shall be determined in accordance with section 1391(a) of  
3 title 28, United States Code.

4       (4) The court, in issuing any final order in any action  
5 brought pursuant to paragraph (1) may award costs of  
6 litigation (including attorney and expert witness fees) to  
7 any party whenever the court determines such award is  
8 appropriate. The court may, if a temporary restraining  
9 order or preliminary injunction is sought, require the filing  
10 of a bond or equivalent security in accordance with the  
11 Federal Rules of Civil Procedure.

12       (5) Nothing in this subsection shall restrict any right  
13 which any person (or class of persons) may have under  
14 any statute or common law to seek enforcement of any  
15 of the provisions of this Act and the regulations there-  
16 under, or to seek any other relief, including relief against  
17 the Secretary.

18       (f) REVIEW BY SECRETARY.—(1)(A) Any operator,  
19 or person conducting mineral activities under section  
20 201(b)(2), issued a notice of violation or cessation order  
21 under subsection (b), or any person having an interest  
22 which is or may be adversely affected by such decisions,  
23 notice or order, may apply to the Secretary for review of  
24 the notice or order within thirty days of receipt thereof,

1 or as the case may be, within thirty days of such notice  
2 or order being modified, vacated or terminated.

3 (B) Any operator, or person conducting mineral ac-  
4 tivities under section 201(b)(2), who is subject to a pen-  
5 alty under subsection (d) or section 105 may apply to the  
6 Secretary for review of the assessment within thirty days  
7 of notification of such penalty.

8 (C) Any person having an interest which is or may  
9 be adversely affected by a decision made by the Secretary  
10 under subsections (g), (h), (i), (j), and (l) of section 201,  
11 or subsection 202(a)(2), or subsection 204(g), may apply  
12 to the Secretary for review of the decision within thirty  
13 days after it is made.

14 (2) The Secretary shall provide an opportunity for  
15 a public hearing at the request of any party. Any hearing  
16 conducted pursuant to this subsection shall be on record  
17 and shall be subject to section 554 of title 5, United States  
18 Code. The filing of an application for review under this  
19 subsection shall not operate as a stay of any order or no-  
20 tice issued under subsection (b).

21 (3) Following the hearing referred to in paragraph  
22 (2), if requested, but in any event the Secretary shall make  
23 findings of fact and shall issue a written decision incor-  
24 porating therein an order vacating, affirming, modifying  
25 or terminating the notice, order or decision, or with re-

1 spect to an assessment, the amount of penalty that is war-  
2 ranted. Where the application for review concerns a ces-  
3 sation order issued under subsection (b), the Secretary  
4 shall issue the written decision within thirty days of the  
5 receipt of the application for review, unless temporary re-  
6 lief has been granted by the Secretary under paragraph  
7 (4).

8       (4) Pending completion of any proceedings under this  
9 subsection, the applicant may file with the Secretary a  
10 written request that the Secretary grant temporary relief  
11 from any order issued under subsection (b) together with  
12 a detailed statement giving reasons for such relief. The  
13 Secretary shall expeditiously issue an order or decision  
14 granting or denying such relief. The Secretary may grant  
15 such relief under such conditions as he may prescribe only  
16 if such relief shall not adversely affect the health or safety  
17 of the public or cause significant, imminent environmental  
18 harm to land, air or water resources.

19       (5) The availability of review under this subsection  
20 shall not be construed to limit the operation of rights es-  
21 tablished under subsection (e).

22       (g) JUDICIAL REVIEW.—(1) Any action by the Sec-  
23 retary in promulgating regulations to implement this Act,  
24 or any other actions constituting rulemaking by the Sec-  
25 retary to implement this Act, shall be subject to judicial

1 review in the United States District Court for the District  
2 of Columbia. Any action subject to judicial review under  
3 this subsection shall be affirmed unless the court con-  
4 cludes that such action is arbitrary, capricious, or other-  
5 wise inconsistent with law. A petition for review of any  
6 action subject to judicial review under this subsection shall  
7 be filed in the United States District Court for the District  
8 of Columbia within sixty days from the date of such ac-  
9 tion, or after such date if the petition is based solely on  
10 grounds arising after the sixtieth day. Any such petition  
11 may be made by any person who commented or otherwise  
12 participated in the rulemaking or who may be adversely  
13 affected by the action of the Secretary.

14 (2) Final agency action under this Act, including  
15 such final action on those matters described under sub-  
16 section (f), shall be subject to judicial review in accordance  
17 with paragraph (4) and pursuant to section 1391(a) of  
18 title 28, United States Code on or before sixty days from  
19 the date of such final action.

20 (3) The availability of judicial review established in  
21 this subsection shall not be construed to limit the oper-  
22 ations of rights established under subsection (e).

23 (4) The court shall hear any petition or complaint  
24 filed under this subsection solely on the record made be-  
25 fore the Secretary. The court may affirm, vacate, or mod-

1 ify any order or decision or may remand the proceedings  
2 to the Secretary for such further action as it may direct.

3 (5) The commencement of a proceeding under this  
4 section shall not, unless specifically ordered by the court,  
5 operate as a stay of the action, order or decision of the  
6 Secretary.

7 (h) PROCEEDINGS.—Whenever a proceeding occurs  
8 under subsection (a), (f), or (g), or under section 201, or  
9 under section 204(g), at the request of any person, a sum  
10 equal to the aggregate amount of all costs and expenses  
11 (including attorney fees) as determined by the Secretary  
12 or the court to have been reasonably incurred by such per-  
13 son for or in connection with participation in such pro-  
14 ceedings, including any judicial review of the proceeding,  
15 may be assessed against either party as the court, result-  
16 ing from judicial review or the Secretary, resulting from  
17 administrative proceedings, deems proper.

18 **SEC. 203. STATE LAW AND REGULATION.**

19 (a) STATE LAW.—(1) Any reclamation standard or  
20 requirement in State law or regulation that meets or ex-  
21 ceeds the requirements of subsections (m) and (n) of sec-  
22 tion 201 shall not be construed to be inconsistent with  
23 any such standard.

24 (2) Any bonding standard or requirement in State  
25 law or regulation that meets or exceeds the requirements

1 of section 201(1) shall not be construed to be inconsistent  
2 with such requirements.

3 (3) Any inspection standard or requirement in State  
4 law or regulation that meets or exceeds the requirements  
5 of section 202 shall not be construed to be inconsistent  
6 with such requirements.

7 (b) APPLICABILITY OF OTHER STATE REQUIRE-  
8 MENTS.—(1) Nothing in this Act shall be construed as af-  
9 fecting any air or water quality standard or requirement  
10 of any State law or regulation which may be applicable  
11 to mineral activities on lands subject to this Act.

12 (2) Nothing in this Act shall be construed as affecting  
13 in any way the right of any person to enforce or protect,  
14 under applicable law, such person's interest in water re-  
15 sources affected by mineral activities on lands subject to  
16 this Act.

17 (c) COOPERATIVE AGREEMENTS.—(1) Any State  
18 may enter into a cooperative agreement with the Secretary  
19 for the purposes of the Secretary applying such standards  
20 and requirements referred to in subsection (a) and sub-  
21 section (b) to mineral activities or reclamation on lands  
22 subject to this Act.

23 (2) In such instances where the proposed mineral ac-  
24 tivities would affect lands not subject to this Act in addi-  
25 tion to lands subject to this Act, in order to approve a

1 plan of operations the Secretary shall enter into a coopera-  
2 tive agreement with the State that sets forth a common  
3 regulatory framework consistent with the surface manage-  
4 ment requirements of this Act for the purposes of such  
5 plan of operations.

6 (3) The Secretary shall not enter into a cooperative  
7 agreement with any State under this section until after  
8 notice in the Federal Register and opportunity for public  
9 comment.

10 (d) PRIOR AGREEMENTS.—Any cooperative agree-  
11 ment or such other understanding between the Secretary  
12 and any State, or political subdivision thereof, relating to  
13 the surface management of mineral activities on lands  
14 subject to this Act that was in existence on the date of  
15 enactment of this Act may only continue in force until the  
16 effective date of this Act, after which time the terms and  
17 conditions of any such agreement or understanding shall  
18 only be applicable to plans of operations approved by the  
19 Secretary prior to the effective date of this Act except as  
20 provided under section 405.

21 (e) DELEGATION.—The Secretary shall not delegate  
22 to any State, or political subdivision thereof, the Sec-  
23 retary's authorities, duties and obligations under this Act,  
24 including with respect to any cooperative agreements en-  
25 tered into under this section.

1 **SEC. 204. UNSUITABILITY REVIEW.**

2 (a) IN GENERAL.—The Secretary of the Interior in  
3 preparing land use plans under the Federal Land Policy  
4 and Management Act of 1976, and the Secretary of Agri-  
5 culture in preparing land use plans under the Forest and  
6 Rangeland Renewable Resources Planning Act of 1974, as  
7 amended by the National Forest Management Act of  
8 1976, shall each conduct a review of lands that are subject  
9 to this Act in order to determine whether there are any  
10 areas which are unsuitable for all or certain types of min-  
11 eral activities pursuant to the standards set forth under  
12 subsection (e). In the event such a determination is made,  
13 the review shall be included in the applicable land use  
14 plan.

15 (b) SPECIFIC AREAS.—Not later than ninety days  
16 after the date of enactment of this Act, the Secretary of  
17 the Interior and the Secretary of Agriculture, on the basis  
18 of any information available, shall each publish a notice  
19 in the Federal Register identifying and listing the lands  
20 subject to this Act which are or may be determined to  
21 be unsuitable for all or certain types of mineral activities  
22 according to the standards set forth in subsection (e).  
23 After opportunity for public comment and proposals for  
24 modifications to such listing, but not later than the effec-  
25 tive date of this Act, each Secretary shall begin to review  
26 the lands identified pursuant to this subsection to deter-



1 mine whether such lands are unsuitable for all or certain  
2 types of mineral activities according to the standards set  
3 forth in subsection (e).

4 (c) LAND USE PLANS.—(1) At such time as the Sec-  
5 retary revises or amends a land use plan pursuant to the  
6 provisions of law other than this Act, the Secretary shall  
7 identify lands determined to be unsuitable for all or cer-  
8 tain types of mineral activities according to the standards  
9 set forth in subsection (e). The Secretary shall incorporate  
10 such determinations in the applicable land use plans.

11 (2) If lands covered by a proposed plan of operations  
12 have not been reviewed pursuant to this section at the time  
13 of submission of a plan of operations, the Secretary shall,  
14 prior to the consideration of the proposed plan of oper-  
15 ations, review the areas that would be affected by the pro-  
16 posed mineral activities to determine whether the area is  
17 unsuitable for all or certain types of mineral activities ac-  
18 cording to the standards set forth in subsection (e). The  
19 Secretary shall use such review in the next revision or  
20 amendment to the applicable land use plan to the extent  
21 necessary to reflect the unsuitability of such lands for all  
22 or certain types of mineral activities according to the  
23 standards set forth in subsection (e).

24 (3) This section does not require land use plans to  
25 be amended until such plans are adopted, revised, or

1 amended pursuant to provisions of law other than this  
2 Act.

3 (d) EFFECT OF DETERMINATION.—(1) If the Sec-  
4 retary determines an area to be unsuitable under this sec-  
5 tion for all or certain types of mineral activities, he shall  
6 do one of the following:

7 (A) In any instance where a determination is  
8 made that an area is unsuitable for all types of min-  
9 eral activities, the Secretary of the Interior, with the  
10 consent of the Secretary of Agriculture for lands  
11 under the jurisdiction of the Secretary of Agri-  
12 culture, shall withdraw such area pursuant to sec-  
13 tion 204 of the Federal Land Policy and Manage-  
14 ment Act of 1976 (43 U.S.C. 1714).

15 (B) In any instance where a determination is  
16 made that an area is unsuitable for certain types of  
17 mineral activities, the Secretary shall take appro-  
18 priate steps to limit or prohibit such types of min-  
19 eral activities.

20 (2) Nothing in this section may be construed as af-  
21 fecting lands where mineral activities under approved  
22 plans of operations or under notice (as provided for in the  
23 regulations of the Secretary of the Interior in effect prior  
24 to the effective date of this Act relating to operations that  
25 cause a cumulative disturbance of five acres or less) were

1 being conducted on the effective date of this Act, except  
2 as provided under subsection (g).

3 (3) Nothing in this section may be construed as pro-  
4 hibiting mineral activities not subject to paragraph (2)  
5 where substantial legal and financial commitments in such  
6 mineral activities were in existence on the effective date  
7 of this Act, but nothing in this section may be construed  
8 as limiting any existing authority of the Secretary to regu-  
9 late such activities.

10 (4) Any unsuitability determination under this sec-  
11 tion shall not prevent the types of mineral activities re-  
12 ferred to in section 201(b)(2)(A), but nothing in this sec-  
13 tion shall be construed as authorizing such activities in  
14 areas withdrawn pursuant to section 204 of the Federal  
15 Land Policy and Management Act of 1976 (43 U.S.C.  
16 1714).

17 (e) REVIEW STANDARDS.—(1) An area containing  
18 lands that are subject to this Act shall be determined to  
19 be unsuitable for all or certain types of mineral activities  
20 if the Secretary determines, after notice and opportunity  
21 for public comment, that reclamation pursuant to the  
22 standards set forth in subsections (m) and (n) of section  
23 201 would not be technologically and economically feasible  
24 for any such mineral activities in such area and where—

1           (A) such mineral activities would substantially  
2           impair water quality or supplies within the area sub-  
3           ject to the mining plan or adjacent lands, such as  
4           impacts on aquifers and aquifer recharge areas;

5           (B) such mineral activities would occur on  
6           areas of unstable geology that could if undertaken  
7           substantially endanger life and property;

8           (C) such mineral activities would adversely af-  
9           fect publicly-owned places which are listed on or are  
10          eligible for listing on the National Register of His-  
11          toric Places, unless the Secretary and the State ap-  
12          prove all or certain mineral activities, in which case  
13          the area shall not be determined to be unsuitable for  
14          such approved mineral activities;

15          (D) such mineral activities would cause loss of  
16          or damage to riparian areas;

17          (E) such mineral activities would impair the  
18          productivity of the land subject to such mineral ac-  
19          tivities;

20          (F) such mineral activities would adversely af-  
21          fect candidate species for threatened and endangered  
22          species status; or

23          (G) such mineral activities would adversely af-  
24          fect lands designated as National Wildlife Refuges.

1       (2) An area may be determined to be unsuitable for  
2 all or certain mineral activities if the Secretary, after no-  
3 tice and opportunity for public comment, determines that  
4 reclamation pursuant to the standards set forth in sub-  
5 sections (m) and (n) of section 201 would not be techno-  
6 logically and economically feasible for any such mineral  
7 activities in such area and where—

8           (A) such mineral activities could result in sig-  
9 nificant damage to important historic, cultural, sci-  
10 entific, and aesthetic values or to natural systems;

11          (B) such mineral activities could adversely af-  
12 fect lands of outstanding aesthetic qualities and sce-  
13 nic Federal lands designated as Class I under sec-  
14 tion 162 of the Clean Air Act (42 U.S.C. 7401 and  
15 following);

16          (C) such mineral activities could adversely af-  
17 fect lands which are high priority habitat for migra-  
18 tory bird species or other important fish and wildlife  
19 species as determined by the Secretary in consulta-  
20 tion with the Director of the Fish and Wildlife Serv-  
21 ice and the appropriate agency head for the State in  
22 which the lands are located;

23          (D) such mineral activities could adversely af-  
24 fect lands which include wetlands if mineral activi-  
25 ties would result in loss of wetland values;

1           (E) such mineral activities could adversely af-  
2       fect National Conservation System Units; or

3           (F) such mineral activities could adversely af-  
4       fect lands containing other resource values as the  
5       Secretary may consider.

6       (f) WITHDRAWAL REVIEW.—In conjunction with con-  
7       ducting an unsuitability review under this section, the Sec-  
8       retary shall review all administrative withdrawals of land  
9       from the location of mining claims to determine whether  
10      the revocation or modification of such withdrawal for the  
11      purpose of allowing such lands to be opened to the location  
12      of mining claims under this Act would be appropriate as  
13      a result of any of the following:

14           (1) The imposition of any conditions referred to  
15      in subsection (d)(1)(B).

16           (2) The surface management requirements of  
17      section 201.

18           (3) The limitation of section 107.

19       (g) CITIZEN PETITION.—In any instance where a  
20      land use plan has not been amended or completed to re-  
21      flect the review referred to in subsection (a), any person  
22      having an interest that may be adversely affected by po-  
23      tential mineral activities on lands subject to this Act cov-  
24      ered by such plan shall have the right to petition the Sec-  
25      retary to determine such lands to be unsuitable for all or

1 certain types of mineral activities. Such petition shall con-  
2 tain allegations of fact with respect to potential mineral  
3 activities and with respect to the unsuitability of such  
4 lands for all or certain mineral activities according to the  
5 standards set forth in subsection (e) with supporting evi-  
6 dence that would tend to establish the allegations.

7       (2) Petitions received prior to the date of the submis-  
8 sion of a proposed plan of operations under this Act, shall  
9 stay consideration of the proposed plan of operations  
10 pending review of the petition.

11       (3) Within four months after receipt of a petition to  
12 determine lands to be unsuitable for all or certain types  
13 of mining in areas where a land use plan has not been  
14 amended or completed to reflect the review referred to in  
15 subsection (a), the Secretary shall hold a public hearing  
16 on the petition in the locality of the area in question. After  
17 a petition has been filed and prior to the public hearing,  
18 any person may support or oppose the determination  
19 sought by the petition by filing written allegations of facts  
20 and supporting evidence.

21       (4) Within sixty days after a public hearing held pur-  
22 suant to paragraph (3), the Secretary shall issue a written  
23 decision regarding the petition which shall state the rea-  
24 sons for granting or denying the requested determination.

1       (5) Reviews conducted pursuant to this subsection  
2 shall be consistent with paragraphs (3) and (4) of sub-  
3 section (d) and with subsection (e).

4 **SEC. 205. LANDS NOT OPEN TO LOCATION.**

5       (a) LANDS.—Subject to valid existing rights, each of  
6 the following shall not be open to the location of mining  
7 claims under this Act on the date of enactment of this  
8 Act:

9           (1) Lands recommended for wilderness designa-  
10 tion by the agency managing the surface, pending a  
11 final determination by the Congress of the status of  
12 such lands.

13          (2) Lands being managed by the Bureau of  
14 Land Management as wilderness study areas on the  
15 date of enactment of this Act except where the loca-  
16 tion of mining claims is specifically allowed to con-  
17 tinue by the statute designating the study area,  
18 pending a final determination by the Congress of the  
19 status of such lands.

20          (3) Lands within Wild and Scenic River System  
21 and lands under study for inclusion in such system,  
22 pending a final determination by the Congress of the  
23 status of such lands.



1           (4) Lands identified by the Bureau of Land  
2           Management as Areas of Critical Environmental  
3           Concern.

4           (5) Lands identified by the Secretary of Agri-  
5           culture as Research Natural Areas.

6           (6) Lands designated by the Fish and Wildlife  
7           Service as critical habitat for threatened or endan-  
8           gered species.

9           (7) Lands administered by the Fish and Wild-  
10          life Service.

11          (8) Lands which the Secretary shall designate  
12          for withdrawal under authority of other law, includ-  
13          ing lands which the Secretary of Agriculture may  
14          propose for withdrawal by the Secretary of the Inte-  
15          rior under authority of other law.

16          (b) DEFINITION.—As used in this section, the term  
17          “valid existing rights” means that a mining claim located  
18          on lands referred to in subsection (a) was properly located  
19          and maintained under the general mining laws prior to  
20          the date of enactment of this Act, and was supported by  
21          a discovery of a valuable mineral deposit within the mean-  
22          ing of the general mining laws on the date of enactment  
23          of this Act, and that such claim continues to be valid.

1   **TITLE III—ABANDONED MINERALS MINE**  
2                   **RECLAMATION FUND**

3   **SEC. 301. ABANDONED MINERALS MINE RECLAMATION**  
4                   **FUND.**

5           (a) ESTABLISHMENT.—(1) There is established on  
6 the books of the Treasury of the United States a trust  
7 fund to be known as the Abandoned Minerals Mine Rec-  
8 lamation Fund (hereinafter in this title referred to as the  
9 “Fund”). The Fund shall be administered by the Sec-  
10 retary of the Interior acting through the Director, Bureau  
11 of Land Management.

12          (2) The Secretary of the Interior shall notify the Sec-  
13 retary of the Treasury as to what portion of the Fund  
14 is not, in his judgment, required to meet current with-  
15 draws. The Secretary of the Treasury shall invest such  
16 portion of the Fund in public debt securities with matu-  
17 rities suitable for the needs of such Fund and bearing in-  
18 terest at rates determined by the Secretary of the Treas-  
19 ury, taking into consideration current market yields on  
20 outstanding marketplace obligations of the United States  
21 of comparable maturities. The income on such investments  
22 shall be credited to, and form a part of, the Fund.

23          (b) AMOUNTS.—The following amounts shall be cred-  
24 ited to the Fund for the purposes of this Act:

1           (1) All moneys received from the collection of  
2       rental fees under section 104 of this Act.

3           (2) Amounts collected pursuant to sections 105  
4       and 202(d) of this Act.

5           (3) All moneys received from the disposal of  
6       mineral materials pursuant to section 3 of the Mate-  
7       rials Act of 1947 (30 U.S.C. 603) to the extent such  
8       moneys are not specifically dedicated to other pur-  
9       poses under other authority of law.

10          (4) Donations by persons, corporations, associa-  
11       tions, and foundations for the purposes of this title.

12          (5) Amounts referred to in section 410(e)(1) of  
13       this Act.

14   **SEC. 302. USE AND OBJECTIVES OF THE FUND.**

15       (a) IN GENERAL.—The Secretary is authorized to use  
16   moneys in the Fund for the reclamation and restoration  
17   of land and water resources adversely affected by past  
18   mineral (other than coal and fluid minerals) and mineral  
19   material mining, including but not limited to, any of the  
20   following:

21           (1) Reclamation and restoration of abandoned  
22       surface mined areas.

23           (2) Reclamation and restoration of abandoned  
24       milling and processing areas.

1           (3) Sealing, filling, and grading abandoned deep  
2 mine entries.

3           (4) Planting of land adversely affected by past  
4 mining to prevent erosion and sedimentation.

5           (5) Prevention, abatement, treatment and con-  
6 trol of water pollution created by abandoned mine  
7 drainage.

8           (6) Control of surface subsidence due to aban-  
9 doned deep mines.

10          (7) Such expenses as may be necessary to ac-  
11 complish the purposes of this title.

12          (b) PRIORITIES.—Expenditure of moneys from the  
13 Fund shall reflect the following priorities in the order  
14 stated:

15           (1) The protection of public health, safety, gen-  
16 eral welfare and property from extreme danger from  
17 the adverse effects of past minerals and mineral ma-  
18 terials mining practices.

19           (2) The protection of public health, safety, and  
20 general welfare from the adverse effects of past min-  
21 erals and mineral materials mining practices.

22           (3) The restoration of land and water resources  
23 previously degraded by the adverse effects of past  
24 minerals and mineral materials mining practices.

1 **SEC. 303. ELIGIBLE AREAS.**

2 (a) ELIGIBILITY.—Lands and waters eligible for rec-  
3 lamation expenditures under this Act shall be those within  
4 the boundaries of States that have lands subject to this  
5 Act and the Materials Act of 1947—

6 (1) which were mined or processed for minerals  
7 and mineral materials or which were affected by  
8 such mining or processing, and abandoned or left in  
9 an inadequate reclamation status prior to the date  
10 of enactment of this title;

11 (2) for which the Secretary makes a determina-  
12 tion that there is no continuing reclamation respon-  
13 sibility under State or Federal laws; and

14 (3) for which it can be established that such  
15 lands do not contain minerals which could economi-  
16 cally be extracted through the reprocessing or  
17 remining of such lands, unless such consideration  
18 are in conflict with the priorities set forth under  
19 paragraphs (1) and (2) of section 302(b).

20 In determining the eligibility under this subsection of Fed-  
21 eral lands and waters under the jurisdiction of the Forest  
22 Service or Bureau of Land Management in lieu of the date  
23 referred to in paragraph (1), the applicable date shall be  
24 August 28, 1974, and November 26, 1980, respectively.

25 (b) SPECIFIC SITES AND AREAS NOT ELIGIBLE.—  
26 Sites and areas designated for remedial action pursuant

1 to the Uranium Mill Tailings Radiation Control Act of  
2 1978 (42 U.S.C. 7901 and following) or which have been  
3 listed for remedial action pursuant to the Comprehensive  
4 Environmental Response Compensation and Liability Act  
5 of 1980 (42 U.S.C. 9601 and following) shall not be eligi-  
6 ble for expenditures from the Fund under this title.

7 **SEC. 304. FUND ALLOCATION AND EXPENDITURES.**

8 (a) ALLOCATIONS.—(1) Moneys available for expend-  
9 iture from the Fund shall be allocated on an annual basis  
10 by the Secretary in the form of grants to eligible States,  
11 or in the form of expenditures under subsection (b), to  
12 accomplish the purposes of this title.

13 (2) The Secretary shall distribute moneys from the  
14 Fund based on the greatest need for such moneys pursu-  
15 ant to the priorities stated in section 302(b).

16 (b) DIRECT FEDERAL EXPENDITURES.—Where a  
17 State is not eligible, or in instances where the Secretary  
18 determines that the purposes of this title may best be ac-  
19 complished otherwise, moneys available from the Fund  
20 may be expended directly by the Director, Bureau of Land  
21 Management. The Director may also make such money  
22 available through grants made to the Chief of the United  
23 States Forest Service, the Director of the National Park  
24 Service, and any public entity that volunteers to develop  
25 and implement, and that has the ability to carry out, all

1 or a significant portion of a reclamation program, or  
2 through cooperative agreements between eligible States  
3 and the entities referred to in this subsection.

4 **SEC. 305. STATE RECLAMATION PROGRAMS.**

5 (a) ELIGIBLE STATES.—For the purposes of section  
6 304(a), “eligible States” are those States for which the  
7 Secretary determines meets each of the following require-  
8 ments:

9 (1) Within the State there are mined lands, wa-  
10 ters, and facilities eligible for reclamation pursuant  
11 to section 303.

12 (2) The State has developed an inventory of  
13 such areas following the priorities established under  
14 section 302(b).

15 (3) The State has established, and the Sec-  
16 retary has approved, a State abandoned minerals  
17 and mineral materials mine reclamation program for  
18 the purpose of receiving and administering grants  
19 under this subtitle.

20 (b) MONITORING.—The Secretary shall monitor the  
21 expenditure of State grants to ensure they are being uti-  
22 lized to accomplish the purposes of this title.

23 (c) STATE PROGRAMS.—(1) The Secretary shall ap-  
24 prove any State abandoned minerals mine reclamation  
25 program submitted to the Secretary by a State under this

1 title if the Secretary finds that the State has the ability  
2 and necessary State legislation to implement such pro-  
3 gram and that the program complies with the provisions  
4 of this title and the regulations of the Secretary under  
5 this title.

6 (2) No State, or a contractor for such State engaged  
7 in approved reclamation work under this title, or a public  
8 entity referred to in section 304(b), shall be liable under  
9 any provision of Federal law for any costs or damages as  
10 a result of action taken or omitted in the course of carry-  
11 ing out an approved State abandoned minerals mine rec-  
12 lamation program under this section. This paragraph shall  
13 not preclude liability for costs or damages as a result of  
14 gross negligence or intentional misconduct by the State.  
15 For purposes of the proceeding sentence, reckless, willful,  
16 or wanton misconduct shall constitute gross negligence.

17 **SEC. 306. AUTHORIZATION OF APPROPRIATIONS.**

18 Amounts credited to the Fund are authorized to be  
19 appropriated for the purpose of this title without fiscal  
20 year limitation.

21 **TITLE IV—ADMINISTRATIVE AND**  
22 **MISCELLANEOUS PROVISIONS**

23 **SEC. 401. POLICY FUNCTIONS.**

24 (a) MINERALS POLICY.—The Mining and Minerals  
25 Policy Act of 1970 (30 U.S.C. 21a) is amended by adding



1 at the end thereof the following: “It shall also be the re-  
2 sponsibility of the Secretary of Agriculture to carry out  
3 the policy provisions of paragraphs (1) and (2) of this  
4 Act.”.

5 (b) MINERAL DATA.—Section 5(e)(3) of the National  
6 Materials and Minerals Policy, Research and Development  
7 Act of 1980 (30 U.S.C. 1604) is amended by inserting  
8 before the period the following: “, except that for National  
9 Forest System lands the Secretary of Agriculture shall  
10 promptly initiate actions to improve the availability and  
11 analysis of mineral data in Federal land use decisionmak-  
12 ing”.

13 **SEC. 402. USER FEES.**

14 The Secretaries of the Interior and Agriculture are  
15 authorized to establish and collect from persons subject  
16 to the requirements of this Act such user fees as may be  
17 necessary to reimburse the United States for a portion of  
18 the expenses incurred in administering such requirements.  
19 Fees may be assessed and collected under this section only  
20 in such matter as may reasonably be expected to result  
21 in an aggregate amount of the fees collected during any  
22 fiscal year which does not exceed the aggregate amount  
23 of administrative expenses referred to in this section.

1 **SEC. 403. REGULATIONS; EFFECTIVE DATES.**

2 (a) EFFECTIVE DATE.—This Act shall take effect  
3 one year after the date of enactment of this Act, except  
4 as otherwise provided in this Act.

5 (b) REGULATIONS.—(1) The Secretary of the Interior  
6 shall issue final regulations to implement title I, such re-  
7 quirements of sections 402 and 409 as may be applicable  
8 to such title, title III and sections 404, 406, and 407 not  
9 later than the effective date of this Act specified in sub-  
10 section (a).

11 (2) The Secretary of the Interior and the Secretary  
12 of Agriculture shall each issue final regulations to imple-  
13 ment their respective responsibilities under title II, such  
14 requirements of section 402 as may be applicable to such  
15 title, and sections 405 and 409 not later than the effective  
16 date of this Act referred to in subsection (a). The Sec-  
17 retary of the Interior and the Secretary of Agriculture  
18 shall coordinate the promulgation of such regulations.

19 (3) Failure to promulgate the regulations specified in  
20 this subsection by the effective date of this Act by reason  
21 of any appeal or judicial review shall not delay the effec-  
22 tive date of this Act as specified in subsection (a).

23 (c) NOTICE.—Within sixty days after the publication  
24 of regulations referred to in subsection (b)(1), the Sec-  
25 retary of the Interior shall give notice to holders of mining  
26 claims and mill sites maintained under the general mining

1 laws as to the requirements of section 404. Procedures  
2 for providing such notice shall be established as part of  
3 the regulations.

4 (d) NEW MINING CLAIMS.—Notwithstanding any  
5 other provision of law, after the effective date of this Act,  
6 a mining claim for a locatable mineral on lands subject  
7 to this Act—

8 (1) may be located only in accordance with this  
9 Act,

10 (2) may be maintained only as provided in this  
11 Act, and

12 (3) shall be subject to the requirements of this  
13 Act.

14 **SEC. 404. TRANSITIONAL RULES; MINING CLAIMS AND MILL**  
15 **SITES.**

16 (a) CLAIMS UNDER THE GENERAL MINING LAWS.—

17 (1) CONVERTED MINING CLAIMS.—Notwithstanding any  
18 other provision of law, within the three-year period after  
19 the effective date of this Act, the holder of any unpatented  
20 mining claim which was located under the general mining  
21 laws before the effective date of this Act may elect to con-  
22 vert the claim under this paragraph by filing an election  
23 to do so with the Secretary of the Interior that references  
24 the Bureau of Land Management serial number of that  
25 claim in the office designated by such Secretary. The pro-

visions of title I (other than subsections (a), (b), (c), (d)(1), (f), and (h) of section 103) shall apply to any such claim, effective upon the making of such election, and the filing of such election shall constitute notice to the Secretary for purposes of section 103(d)(2). Once a mining claim has been converted, there shall be no distinction made as to whether such claim was originally located as a lode or placer claim.

(2) UNCONVERTED MINING CLAIMS.—Notwithstanding any other provision of law, any claim referred to in paragraph (1) that has not converted within the three-year period referred to in such paragraph shall be deemed forfeited and declared null and void.

(3) CONVERTED MILL SITE CLAIMS.—Notwithstanding any other provision of law, within the three-year period after the effective date of this Act, the holder of any unpatented mill site which was located under the general mining laws before the effective date of this Act may elect to convert the site under this paragraph by filing an election to do so with the Secretary of the Interior that references the Bureau of Land Management serial number of that mill site in the office designated by such Secretary. The provisions of title I (other than subsections (a), (b), (c), (d)(1), and (f) of section 103) shall apply to any such claim, effective upon the making of such

1 election, and the filing of such election shall constitute no-  
2 tice to the Secretary for purposes of section 103(d)(2).  
3 A mill site converted under this paragraph shall be deemed  
4 a mining claim under this Act.

5 (4) UNCONVERTED MILL SITE CLAIMS.—Notwith-  
6 standing any other provision of law, any mill site referred  
7 to in paragraph (3) that has not converted within the  
8 three-year period referred to in such paragraph shall be  
9 deemed forfeited and declared null and void.

10 (5) TUNNEL SITES.—Any tunnel site located under  
11 the general mining laws on or before the effective date  
12 of this Act shall not be recognized as valid unless con-  
13 verted pursuant to paragraph (1). No tunnel sites may  
14 be located under the general mining laws after the effec-  
15 tive date of this Act.

16 (b) SPECIAL APPLICATION OF REQUIREMENTS.—For  
17 mining claims and mill sites converted under this section  
18 each of the following shall apply:

19 (1) For the purposes of complying with the re-  
20 quirements of section 103(d)(2), whenever the Sec-  
21 retary receives an election under paragraphs (1) or  
22 (3) of subsection (a), as the case may be, he shall  
23 provide the certificate referenced in section  
24 103(d)(2) to the holder of the mining claim or mill  
25 site.

1           (2) The first diligence year applicable to mining  
2       claims and mill sites converted under this section  
3       shall commence on the first day of the first month  
4       following the date the holder of such claim or mill  
5       site files an election to convert with the Secretary  
6       under paragraphs (1) or (3) of subsection (a), as the  
7       case may be, and subsequent diligence years shall  
8       commence on the first day of that month each year  
9       thereafter.

10          (3) For the purposes of determining the bound-  
11       aries of a mining claim to which the rental require-  
12       ments of section 104 apply for a mining claim or  
13       mill site converted under this section, the rental fee  
14       shall be paid on the basis of land within the bound-  
15       aries of the converted mining claim or mill site as  
16       described in the notice of location or certificate of lo-  
17       cation filed under section 314 of the Federal Land  
18       Policy and Management Act of 1976.

19          (c) PRECONVERSION.—Any unpatented mining claim  
20       or mill site located under the general mining laws shall  
21       be deemed to be a prior claim for the purposes of section  
22       103(e) during the three-year period referred to in sub-  
23       sections (a)(1) or (a)(3).

24          (d) POSTCONVERSION.—Any unpatented mining  
25       claim or mill site located under the general mining laws

1 shall be deemed to be a prior claim for the purposes of  
2 section 103(e) if converted pursuant to subsections (a)(1)  
3 or (a)(3).

4 (e) DISPOSITION OF LAND.—In the event a mining  
5 claim is located under this Act for lands encumbered by  
6 a prior mining claim or mill site located under the general  
7 mining laws, such lands shall become part of the claim  
8 located under this Act if the claim or mill site located  
9 under the general mining laws is declared null and void  
10 under this section or otherwise becomes null and void  
11 thereafter.

12 (f) PRE-ACT CONFLICTS.—(1) Any conflicts in exist-  
13 ence on or before the date of enactment of this Act be-  
14 tween holders of mining claims located under the general  
15 mining laws may be resolved in accordance with applicable  
16 laws governing such conflicts in effect on the date of en-  
17 actment of this Act in a court with proper jurisdiction.

18 (2) Any conflicts not relating to matters provided for  
19 under section 103(g) between the holders of a mining  
20 claim located under this Act and a mining claim or mill  
21 located under the general mining laws arising either before  
22 or after the conversion of any such claim or site under  
23 this section shall be resolved in a court with proper juris-  
24 diction.

1 **SEC. 405. TRANSITIONAL RULES; SURFACE MANAGEMENT**  
2 **REQUIREMENTS.**

3 (a) NEW CLAIMS.—Notwithstanding any other provi-  
4 sion of law, any mining claim for a locatable mineral on  
5 lands subject to this Act located after the date of enact-  
6 ment of this Act, but prior to the effective date of this  
7 Act, shall be subject to such surface management require-  
8 ments as may be applicable to the mining claim in effect  
9 prior to the date of enactment of this Act until the effec-  
10 tive date of this Act, at which time such claim shall be  
11 subject to the requirements of title II.

12 (b) PREEXISTING CLAIMS.—Notwithstanding any  
13 other provision of law, any unpatented mining claim or  
14 mill site located under the general mining laws shall be  
15 subject to the requirements of title II as follows:

16 (1) In the event a plan of operations had not  
17 been approved for mineral activities on any such  
18 claim or site prior to the effective date of this Act,  
19 the claim or site shall be subject to the requirements  
20 of title II upon the effective date of this Act.

21 (2) In the event a plan of operations had been  
22 approved for mineral activities on any such claim or  
23 site prior to the effective date of this Act, such plan  
24 of operations shall continue in force for a period of  
25 five years after the effective date of this Act, after  
26 which time the requirements of title II shall apply,



1       except as provided under subsection (c), subject to  
2       the limitations of section 204(d)(2). In order to meet  
3       the requirements of section 201, the person conduct-  
4       ing mineral activities under such plan of operations  
5       shall apply for a modification under section 201(i).  
6       During such five-year period the provisions of sec-  
7       tion 202 shall apply on the basis of the surface man-  
8       agement requirements applicable to such plans of  
9       operations prior to the effective date of this Act.

10       (3) In the event a notice had been filed with the  
11       authorized officer in the applicable district office of  
12       the Bureau of Land Management (as provided for in  
13       the regulations of the Secretary of the Interior in ef-  
14       fect prior to the date of enactment of this Act relat-  
15       ing to operations that cause a cumulative disturb-  
16       ance of five acres or less) prior to the date of enact-  
17       ment of this Act, mineral activities may continue  
18       under such notice for a period of two years after the  
19       effective date of this Act, after which time the re-  
20       quirements of title II shall apply, except as provided  
21       under subsection (c), subject to the limitations of  
22       section 204(d)(2). In order to meet the requirements  
23       of section 201, the person conducting mineral activi-  
24       ties under such notice must apply for a modification  
25       under section 201(i) unless such mineral activities

1 are conducted pursuant to section 201(b)(2). During  
2 such two-year period the provisions of section 202  
3 shall apply on the basis of the surface management  
4 requirements applicable to such notices prior to the  
5 effective date of this Act.

6 (4) In the event a notice (as described in para-  
7 graph (3)) had not been filed with the authorized of-  
8 ficer in the applicable district office of the Bureau  
9 of Land Management prior to the date of enactment  
10 of this Act, the claim or site shall be subject to the  
11 surface management requirements in effect prior to  
12 the effective date of this Act at which time such  
13 claims shall be subject to the requirements of title  
14 II.

15 **SEC. 406. BASIS FOR CONTEST.**

16 (a) DISCOVERY.—After the effective date of this Act,  
17 a mining claim may not be contested or challenged on the  
18 basis of discovery under the general mining laws, except  
19 as follows:

20 (1) Any claim located on or before the effective  
21 date of this Act may be contested by the United  
22 States on the basis of discovery under the general  
23 mining laws as in effect prior to the effective date  
24 of this Act if such claim is located within units of  
25 the National Park System, National Wildlife Refuge

1       System, National Wilderness Preservation System,  
2       Wild and Scenic Rivers System, National Trails Sys-  
3       tem, or National Recreation Areas designated by an  
4       Act of Congress, or within an area referred to in  
5       section 205 pending a final determination referenced  
6       in such section.

7           (2) Any mining claim located on or before the  
8       effective date of this Act may be contested by the  
9       United States on the basis of discovery under the  
10      general mining laws as in effect prior to the effective  
11      date of this Act if such claim was located for a min-  
12      eral material that purportedly has a property giving  
13      it distinct and special value within the meaning of  
14      section 3(a) of the Act of July 23, 1955, or if such  
15      claim was located for a mineral that was not  
16      locatable under the general mining laws on or before  
17      the effective date of this Act.

18      (b) The Secretary of the Interior or the Secretary of  
19      Agriculture, as the case may be, may initiate contest pro-  
20      ceedings against those mining claims referred to in sub-  
21      section (a) at any time, except that nothing in this section  
22      may be construed as requiring the Secretary to inquire  
23      into or contest the validity of a mining claim for the pur-  
24      pose of the conversion referred to in section 404.

1 (c) Nothing in this section may be construed as limit-  
2 ing any contest proceedings initiated by the United States  
3 under this section on issues other than discovery.

4 **SEC. 407. SAVINGS CLAUSE CLAIMS.**

5 (a) Notwithstanding any other provision of law, ex-  
6 cept as provided under subsection (b), an unpatented min-  
7 ing claim referred to in section 37 of the Mineral Leasing  
8 Act (30 U.S.C. 193) may not be converted under section  
9 404 until the Secretary of the Interior determines the  
10 claim was valid on the date of enactment of the Mineral  
11 Leasing Act and has been maintained in compliance with  
12 the general mining laws.

13 (b) Immediately after the date of enactment of this  
14 Act, the Secretary of the Interior shall initiate contest pro-  
15 ceedings challenging the validity of all unpatented claims  
16 referred to in subsection (a), including those claims for  
17 which a patent application has not been filed. If a claim  
18 is determined to be invalid, the Secretary shall promptly  
19 declare the claim to be null and void.

20 (c) No claim referred to in subsection (a) shall be  
21 declared null and void under section 404 during the period  
22 such claim is subject to a proceeding under subsection (b).  
23 If, as a result of such proceeding, a claim is determined  
24 valid, the holder of such claim may comply with the re-  
25 quirements of section 404(a)(1), except that the three-year

1 period referred to in such section shall commence with the  
2 date of the completion of the contest proceeding.

3 **SEC. 408. SEVERABILITY.**

4 If any provision of this Act or the applicability there-  
5 of to any person or circumstances is held invalid, the re-  
6 mainder of this Act and the application of such provision  
7 to other persons or circumstances shall not be affected  
8 thereby.

9 **SEC. 409. PURCHASING POWER ADJUSTMENT.**

10 The Secretary shall adjust all rental rates, penalty  
11 amounts, and other dollar amounts established in this Act  
12 for changes in the purchasing power of the dollar every  
13 ten years following the date of enactment of this Act, em-  
14 ploying the Consumer Price Index for all urban consumers  
15 published by the Department of Labor as the basis for  
16 adjustment, and rounding according to the adjustment  
17 process of conditions of the Federal Civil Penalties Infla-  
18 tion Adjustment Act of 1990 (104 Stat. 890).

19 **SEC. 410. ROYALTY.**

20 (a) RESERVATION OF ROYALTY.—Production of  
21 locatable minerals (including associated minerals) from  
22 any mining claim located or converted under this Act, or  
23 mineral concentrates derived from locatable minerals pro-  
24 duced from any mining claim located or converted under  
25 this Act, as the case may be, shall be subject to a royalty

1 of not less than 8 percent of the gross income from the  
2 production of such locatable minerals or concentrates, as  
3 the case may be.

4 (b) ROYALTY PAYMENTS.—Royalty payments shall  
5 be made to the United States not later than thirty days  
6 after the end of the month in which the product is pro-  
7 duced and placed in its first marketable condition, consist-  
8 ent with prevailing practices in the industry.

9 (c) REPORTING REQUIREMENTS.—All persons hold-  
10 ing claims under this Act shall be required to provide such  
11 information as determined necessary by the Secretary to  
12 ensure compliance with this section, including, but not  
13 limited to, quarterly reports, records, documents, and  
14 other data. Such reports may also include, but not be lim-  
15 ited to, pertinent technical and financial data relating to  
16 the quantity, quality, and amount of all minerals extracted  
17 from the mining claim.

18 (d) AUDITS.—The Secretary is authorized to conduct  
19 such audits of all persons holding claims under this Act  
20 as he deems necessary for the purposes of ensuring com-  
21 pliance with the requirements of this section.

22 (e) DISPOSITION OF RECEIPTS.—All receipts from  
23 royalties collected pursuant to this section shall be distrib-  
24 uted as follows:

1           (1) 50 percent shall be deposited into the Fund  
2       referred to in title III.

3           (2) 25 percent collected in any State shall be  
4       paid to the State in the same manner as are pay-  
5       ments to States under section 35 of the Mineral  
6       Leasing Act.

7           (3) 25 percent shall be deposited into the  
8       Treasury of the United States.

9       (f) COMPLIANCE.—Any person holding claims under  
10   this Act who knowingly or willfully prepares, maintains,  
11   or submits false, inaccurate, or misleading information re-  
12   quired by this section, or fails or refuses to submit such  
13   information, shall be subject to the enforcement provisions  
14   of section 202 of this Act and forfeiture of the claim.

15       (g) REGULATIONS.—The Secretary shall promulgate  
16   regulations to establish gross income for royalty purposes  
17   under subsection (a) and to ensure compliance with this  
18   section.

19       (h) REPORT.—The Secretary shall submit to the Con-  
20   gress an annual report on the implementation of this sec-  
21   tion. The information to be included in the report shall  
22   include, but not be limited to, aggregate and State-by-  
23   State production data, and projections of mid-term and  
24   long-term hard rock mineral production and trends on  
25   public lands.

1 **SEC. 411. SAVINGS CLAUSE.**

2 (a) SPECIAL APPLICATION OF MINING LAWS.—Noth-  
3 ing in this Act shall be construed as repealing or modify-  
4 ing any Federal law, regulation, order or land use plan,  
5 in effect prior to the effective date of this Act that pro-  
6 hibits or restricts the application of the general mining  
7 laws, including such laws that provide for special manage-  
8 ment criteria for operations under the general mining laws  
9 as in effect prior to the effective date of this Act, to the  
10 extent such laws provide environmental protection greater  
11 than required under this title.

12 (b) OTHER FEDERAL LAWS.—Nothing in this Act  
13 shall be construed as superseding, modifying, amending  
14 or repealing any provision of Federal law not expressly  
15 superseded, modified, amended or repealed by this Act, in-  
16 cluding but not necessarily limited to, all of the following  
17 laws:

18 (1) The Clean Water Act (33 U.S.C. 1251 and  
19 following).

20 (2) The Clean Air Act (42 U.S.C. 7401 and fol-  
21 lowing).

22 (3) Title IX of the Public Health Service Act  
23 (the Safe Drinking Water Act (42 U.S.C. 300f and  
24 following)).

25 (4) The Endangered Species Act of 1973 (16  
26 U.S.C. 1531 and following).



1           (5) The National Environmental Policy Act of  
2           1969 (42 U.S.C. 4321 and following).

3           (6) The Atomic Energy Act of 1954 (42 U.S.C.  
4           2011 and following).

5           (7) The Uranium Mill Tailings Radiation Con-  
6           trol Act (42 U.S.C. 7901 to 7942).

7           (8) The Federal Mine Safety and Health Act of  
8           1977 (30 U.S.C. 801 and following).

9           (9) The Solid Waste Disposal Act 942 U.S.C.  
10          6901 and following).

11          (10) The Comprehensive Environmental Re-  
12          sponse, Compensation, and Liability Act of 1980 (42  
13          U.S.C. 9601 and following).

14          (11) The Act commonly known as the False  
15          Claims Act (31 U.S.C. 3729 to 3731).

16          (12) The National Historic Preservation Act  
17          (16 U.S.C. 470 and following).

18          (13) The Migratory Bird Treaty Act (16 U.S.C.  
19          706 and following).

20          (14) The Forest and Rangeland Renewable Re-  
21          sources Planning Act of 1974, as amended by the  
22          National Forest Management Act of 1976.

23          (c) PROTECTION OF CONSERVATION AREAS.—In  
24          order to protect the resources and values of Denali Na-  
25          tional Park and Preserve, and all other National Con-

1 servation System units, the Secretary of the Interior or  
 2 other appropriate Secretary shall utilize authority under  
 3 this Act and other applicable law to the fullest extent nec-  
 4 essary to prevent mineral activities within the boundaries  
 5 of such units that could have an adverse impact on the  
 6 resources of values of such units.

7 **SEC. 412. AVAILABILITY OF PUBLIC RECORDS.**

8       Copies of records, reports, inspection materials or in-  
 9 formation obtained by the Secretary under this Act shall  
 10 be made immediately available to the public, consistent  
 11 with section 552 of title 5, United States Code, in central  
 12 and sufficient locations in the county, multicounty, and  
 13 State area of mineral activity or reclamation so that such  
 14 items are conveniently available to residents in the area  
 15 proposed or approved for mineral activities or reclamation.



S 504 IS——2

S 504 IS——3

S 504 IS——4

S 504 IS——5

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